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**After Recording Return To:**  
McCombs Commercial Realty  
6333 Apples' Way, Ste 115  
Lincoln, NE 68516  
402-435-0000

## Declaration of Covenants, Conditions and Restrictions

**Legal:** Lots 1 – 10 of Prairie Village North 12<sup>th</sup> Addition; Block 1, Lots 1 – 20, Block 2, Lots 1 – 22, Block 3, Lots 1 – 12 of Prairie Village North 17<sup>th</sup> Addition, Lincoln, Lancaster County, Nebraska.

7101 PRAIRIE VILLAGE NORTH  
PRAIRIE VILLAGE NORTH

## Declaration of Covenants, Conditions and Restrictions

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### Prairie Village North 12<sup>th</sup> and 17<sup>th</sup>

THIS DECLARATION is made and entered into as of this 17th day of August, 2016, by , Prairie Home Builders, Inc., a Nebraska corporation, hereinafter referred to as the "Declarant".

The Declarant is the owner of the following described real estate collectively referred to as "Properties".

Prairie Village North 12<sup>th</sup> and 17<sup>th</sup> Additions, Lincoln, Lancaster County, Nebraska, collectively referred to as "Properties"; and

Windmill and Wagon HOA LLC will be incorporated by Declarant in Nebraska for the purposes of enforcing the Restrictive Covenants established upon the Properties and administering and maintaining the Commons.

The Declarant of the described "Properties" acknowledge that these Restrictive Covenants were proposed at the time of conveyance of the property and by their signature upon and filing of Acknowledgment of Restrictive Covenants with the Office of the Register of Deeds, said owners ratify, adopt and approve these Restrictive Covenants and agree to be bound by the terms and provisions of these Restrictive Covenants.

### Article I – Definitions

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Unless defined elsewhere in this Declaration, the following terms are defined below:

**"Association"** shall mean the Windmill and Wagon HOA, a Nebraska nonprofit corporation, which has been or shall be established for the purpose of enforcing and maintain compliance with this Declaration.

**"Board of Directors"** shall mean and refer to the Board of Directors of the Association.

**"Common Area"** shall mean all Roadways, sidewalks along the Roadways, all public utilities and all Green Area now or hereafter located on the Townhome Property.

**"Declarant"** shall mean Prairie Home Builders, Inc., a Nebraska corporation and their successors and assignees. Declarant is the owner of the Townhome Property defined herein.

**"Declaration"** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions to which the Properties are subject.

**"Green Area"** shall mean all of the Townhome Property except that portion of the Townhome Property on which any townhome structure, patio, garage, sidewalk, driveway, walkway or Roadways are located.

**"Living Unit"** shall mean and refer to any portion of Building situated upon a Lot and designed and intended for use and occupancy as a residence by a single family or individual.

**"Lot" or "Lots"** shall mean all townhome lots now or hereafter located on the Townhome Property, which are shown on any final plat of all or any portion of the Townhome Property that has been filed with the Lancaster County Register of Deeds.

**“Lot Owner”** or **“Owner”** shall mean the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding, however, those parties having any interest in any of such Lot merely as security for the performance of any obligation (such as contract seller, the trustee or beneficiary of a deed of trust, or a mortgage).

**“Member”** shall mean those Lot Owners entitled to vote on matters pertaining to the business of the Association.

**“Roadways”** shall mean the private roadways located on the Townhome Property which are open for public use and/or common use of the Lot Owners, their guests and invitees.

**“Townhome Property”** shall mean the real property legally described as ~~Block~~, Lots 1 – 10 of Prairie Village North 12<sup>th</sup> Addition; Block 1, Lots 1 – 20, Block 2 Lots 1 – 22, Block 3 Lots 1 – 12 of Prairie Village North 17<sup>th</sup> Addition, Lincoln, Lancaster County, Nebraska

## Article II – Declaration

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In order to provide for the preservation of the values and amenities of the Lots as well as for the maintenance of the character and residential integrity of the Lots, the Declarant, Owner of the Townhome Property, hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the restrictions, covenants, conditions and easements contained in this Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof. The Lots are, and each Lot is, and shall be, subject to all and each of the following conditions and other terms.

## Article III - Restrictions and Covenants

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**Use:** Each Lot located within the Townhome Property shall be used exclusively for townhome residential purposes. No lot within the Properties shall be used for any commercial use for childcare, daycare, preschool, or similar use, regardless of whether such commercial use has employees upon the premises or not.

**Grading and Plan Approval:** Declarant or its assignees shall have the exclusive right to establish grades and slopes for all lots within the Properties and to fix the grade at which any building or other improvement shall be placed or constructed upon any lot, in conformity with the general plan for the development of the Properties. Declarant shall also have the exclusive right to review and approve plans for all dwellings and improvements constructed within the Properties. Prior to constructing any improvements upon a lot with the Properties, the Lot Owner of the lot or their agent shall obtain the prior written approval of the Declarant prior to commencing construction of the improvements.

**Exterior Finish Requirements:** Declarant has approved the site plan and design of the improvements to be constructed on the Lots. Once constructed, no owner of a Lot may modify, alter or customize the

exterior appearance of the improvements constructed on the Lots provided however; the exterior features of the improvements may be repaired and/or replaced provided such repair or replacement does not materially change the exterior appearance of such improvement.

**Changes or Modifications:** 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 Declarant or its successor in interest to proceed with any such construction, change or modification, which approval shall not be unreasonably withheld.

**Drainage:** All grading has been or shall be completed in compliance with the land subdivision ordinance of the Lincoln Municipal Code and has been or shall be inspected and approved by the City of Lincoln. Approved drainage patterns established by grading must be maintained permanently. Finish grading by the purchaser of a lot shall comply with the approved drainage pattern. If the purchaser of a Lot changes the drainage pattern, purchaser shall be liable for all damages to the property or adjacent properties and shall be required to re-establish the approved drainage pattern and repair all damages at its sole cost.

**Fencing:** Fencing is allowed. To be: residential grade ornament aluminum "Belmont" style, 5 feet high as manufactured by Alum Guard. Belmont Puppy-picket can be added for smaller dogs if desired. All fencing installation to be approved by: Home Owners Association Board of Directors.

**Accessory Structures:** No detached accessory buildings, sheds, playhouses, greenhouses or any structures of any kind shall be constructed or placed on any Lot.

**Dog Kennels:** No kennels or dog runs shall be allowed on any Lot.

**Landscaping:** All front, side and rear yard areas shall be seeded or sodded within six (6) months after completion of any dwelling constructed within the Properties.

**Lightning:** All 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.

**City Requirements:** All buildings within the Properties shall be constructed in conformity with the requirements of the applicable building codes of the City of Lincoln, Nebraska. Public sidewalks and street trees shall be installed during the construction of the dwelling as required by the City of Lincoln, Nebraska.

**Antennas:** No satellite dish, wiring or antennas for electrical power, telephone, television, radio or similar purpose shall be permitted above ground, except where such wiring, antenna or satellite dish is enclosed within a structure. The only exceptions are:

1. A satellite dish, not to exceed thirty-six (36) inches in diameter, may be attached outside to the dwelling, but the dish must be screened so as to be as unobtrusive as is reasonably possible.
2. A low profile "over-the-air" television antenna may be attached to the exterior of the dwelling, but the antenna must be screened so as to be as unobtrusive as is reasonably possible.

**Temporary Structures:** No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any lot within the Properties shall be used as either a temporary or permanent structure.

**Nuisance:** No noxious or offensive activity shall be conducted or permitted upon any lot within the Properties, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining lots.

**Subdivision:** No Lot may be split, divided or subdivided for sale, resale, gift, transfer, or otherwise, without prior written approval of Declarant of plans and specifications for such split, division or subdivision. This provision does not apply to Declarant.

**Signs.** No advertising signs, billboards, or other advertising devices shall be permitted on any lot within the Properties larger than 24 inches by 36 inches. However, Declarant may erect signs of any size advertising lots for sale within the Properties, and a sign advertising a single lot for sale may be erected upon any lot.

**Storage on Lot:** No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot for over twenty-four (24) hours, other than in an enclosed structure. No motor vehicle may be parked or stored outside on any Lot, except properly licensed and registered vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Paragraph shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction.

**Animals:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot within the Properties for any commercial purpose.

**Pets:** Domestic pets have the potential to create significant nuisance problems within the Properties. Each Member shall be responsible for controlling all domestic pets and preventing them from becoming an annoyance, nuisance, or unreasonably distributing the quiet of any Member. Specific rules, regulations and requirements further implementing this provision (including the banning of individual animals, types of animals or specific breeds) may be adopted by not less than sixty percent (60%) of the Members and with written notice shall be binding upon and enforceable by the Association and any Member against all of the Properties. Pit Bulls are banned.

**Recreational Vehicles:** No recreational vehicle, as defined by the Lincoln Municipal Code, shall be parked or stored upon any lot within the Properties, except within an enclosed structure. Recreational vehicles may be temporarily parked or stored upon a lot for a period of time not to exceed 14 days per year.

**Construction Vehicles and Roll-off Service:** Owner may designate and enforce locations through and over which all construction vehicles shall enter and exit the Properties during development. Declarant shall also have the exclusive right to designate a single provider of roll-off service within the Properties. The purpose of designating a single provider is to limit and control the number of service trucks operating within the Properties.

**Townhome Properties Maintenance:** Each individual Lot Owner, at their own expense, shall maintain in good condition the driveway from such Lot Owner's lot to the Roadway, and the private walkways located on such Lot Owner's lot, and all other patios and/or decks specifically serving such Lot. Notwithstanding the foregoing, the Association shall be responsible for snow removal from all driveways, front stoops and public sidewalks.

## Article IV – Homeowners Association

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**The Association:** Declarant shall cause the incorporation of the Association. The Association shall have as its purpose the promotion of the health safety, recreation, welfare and enjoyment of the residents of the Townhome Lots, including:

- a. The acquisition, construction, improvement, maintenance, operation, repair, upkeep, replacement and administration of the Common Areas for the use, benefit and enjoyment of all the Members, including snow removal from all driveways and public sidewalks located upon the Lots. The Common Area may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property.
- b. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of the Common Area. The rules and regulations may permit or restrict use of the Common Area by Members, their families, their guest, and/or by other persons who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Area.
- c. The exercise, promotion, enhancement and protection of the privileges and interest of the residents of the Townhome Lots; and the protection and maintenance of the residential character of the Townhome Lots.

**Membership and Voting:** Every Lot Owner, whether one or more persons or entities, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of each Lot and ownership of such Lot shall be the sole qualification for membership.

The Association shall have two classes of membership:

- a. Class A membership shall include all Members of the Association except the Declarant. Each Class A member of the Windmill and Wagon HOA shall be entitled to all rights of memberships and one (1) vote for each lot.
- b. Class B membership shall include only the Declarant and any successor in interest and shall be entitled to ninety-two (92) votes plus one (1) additional vote for each lot until the last lot is sold, title has been transferred, and membership is terminated by the Declarant or any successor in interest.

**Voting of Members:** The members shall have voting rights as set forth in the Bylaws, with one vote for each Lot.

**Board of Directors; Initial Board:** The Declarant entitled to vote shall appoint a Board of Directors of the Association as prescribed by the Associations Bylaws. The Board of Directors shall manage the affairs of the Association. Until such time as the Declarant no longer owns any portion of the Properties or until

the Declarant waives the right to be the sole voting Member, whichever first occurs, The Board of Directors appointed by the Declarant shall exercise the powers, rights, duties and functions of the Association. The Board of Directors of the Association, or a designated Member thereof, shall cast the votes allocated to the Owners in the Member Association pursuant to the Master Declaration in connection with the affairs of the Master Association.

**Suspension of Membership Rights & Privileges of Owner:** The Board of Directors of the Association shall suspend the voting rights of a Member for any period during which any assessment against Lot Owner's lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

**Notice of Member's Meetings:** Unless the Articles of Incorporation or the Bylaws provide otherwise, written notice stating the place, day and hours of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or via electronic delivery or by mail, by or at the direction of the president or secretary, or the officer or persons calling the meetings, to each Member entitled to vote at such meeting. If mailed, such noticed shall be deemed delivered when deposited in the United States Mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Managing Agent:** The Declarant or the Association may contract for the performance of any of the Declarants rights, obligations or responsibilities with any entity or individual (Managing Agent). The Managing Agent shall exercise such authority which may be granted to the Declarant or the Association. The fee charged by the Managing Agent shall be a common expense of the Members. The association must be managed by a third party property management corporation and cannot be managed by the subdivision board or it's members.

**Services:** The Managing Agent shall have the ability to arrange and pay for services for the Prairie Village North Properties and the Prairie Village North Commons which may include: garbage removal, snow removal from driveways, sidewalks, and the streets, maintenance and electricity cost of the street lights, lawn care for all Townhome lots, maintenance of common area, future private street maintenance as well as any other services, maintenance and repairs the Managing Agent may conduct at its sole discretion.

**Rights of All Members:** Each Member of the Association shall have the right to use and enjoy the Common Area and shall have an easement over and upon the Common Area for the use and enjoyment thereof, which shall be appurtenant to and shall pass with the interest requisite for membership held by such Member; provided, however, that no Lot Owner shall construct any structures within the Common Area without the prior written consent of the Association. The rights of the Members of the Association in and upon the Common Area shall be subject to the following:

- a. All easements shown upon any final plat of any portion of the Townhome Property recorded with the Register of Deeds of Lancaster County, Nebraska
- b. The right of the Association to promulgate rules and regulations for the reasonable use and enjoyment of the Common Area and the right of the Association, as provided in its Articles and Bylaws to suspend a Member's use of the Common Area for any period during which any assessment remains unpaid.

- c. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility and subject to such conditions as may be agreed to by the Members; provided, however, that any such dedication or transfer shall be approved by a majority vote at a regular meeting of the Members, providing notice of the proposed dedication or transfer be contained in the notice of such meeting and
- d. The use of the Roadways and public sidewalks located within the Common Area by the general public pursuant to any public access easement granted or to be granted by the Declarant.

**Powers and Responsibilities:** The Association, after any assignment of this right from Declarant, shall provide such services to its members as they may determine. These services and responsibilities of the Association may include, but are not limited to, the following:

- a. **Maintenance of Commons:** The Declarant covenants, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons to the extent not otherwise provided for by these Covenants, which Covenants by the Members shall be satisfied by the payment of monthly dues and special assessments for the administration, maintenance or improvement of the Commons.
- b. **Refuse Services:** The Association may contract on behalf of each member for refuse collection services through a single designated provider. The cost of these services shall be paid for by Members as part of their dues and assessments.
- c. **Grounds Maintenance:** The Association shall provide to each Member grounds maintenance which shall include mowing of each member's lawn, and snow removal from the public sidewalk, front stoop and driveway lot. In the event any improvements, such as fences, planters or similar obstructions or plantings, such as gardens, shrubs, plants or trees, increase the cost to the Association of performing ground maintenance service for any lot, any additional cost to the Association shall be paid by the Lot Owner, or the improvements or plantings shall be removed by the Lot Owner, or the Association may discontinue this service without any reduction to the dues or assessment paid by the Lot Owner.

## Article V - Dues and Assessments

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**Imposition of Dues and Assessments:** The Association may fix, levy and charge each Lot Owner with 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 time and in the manner prescribed by the Board of Directors.

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



**Liens and Personal Obligations for Dues and Assessments.** The dues and assessments, together with interest thereon, late fees, costs and reasonable attorneys' fees, shall be the personal obligation of the Lot Owner at the time when the dues and assessments first become due and payable. The dues and assessments, together with interest thereon, late fees, costs and reasonable attorneys' fees, shall also be a charge and constitute a lien upon the Lot in respect of which the late fees, dues and assessments are charged. The Managing Agent shall file a lien with the Register of Deeds whenever it deems advisable to do so on any late fees, dues and assessments.

**Purpose of Dues:** Dues and assessments, other than for capital improvements, may be levied by the Board of Directors of the Association. The dues and assessments levied and collected by the Association shall be committed and expended to accomplish the purposes and to perform the powers and responsibilities of the Association described in these Covenants.

**Uniform Rate of Dues and Assessments.** The Association shall, upon written request and for a reasonable charge, shall furnish a certificate signed by the Managing Agent or 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.

**Annual Assessments and Liens:** Annual dues and special assessments, other than for capital improvements, may be levied by the Board of Directors. Any special assessment for capital improvements may be levied by the Board of Directors with a vote of approval by a majority of each class of members either at a regular meeting of the members, a special session of the members or by a written proxy.

The members shall pay annual dues and special assessments to the Association or Managing Agent as billed. Each member's dues shall be determined on an annual basis for each fiscal year, prorating a fractional year which may occur upon the initial occupancy for any dwelling. Changes in the amount of future annual dues shall be based upon an estimate of the Association's costs for the administration, maintenance and improvement of the Commons and each member shall pay the annual dues so established in advance. At the end of each fiscal year, a statement of the total year's Commons operating costs may be presented to the members of the Association and the members shall pay any excess charge to the Association within thirty (30) days of the statement.

- a. **Budgets.** The Association or Managing Agent shall prepare, approve and make available to each member a pro forma operating statement (budget) containing: (1) estimated revenue and expenses on an accrual basis; (2) the amount of any cash reserves of the Corporation currently available for replacement or major repair of the Commons and for contingencies; and (3) a general statement setting forth the procedures used by the Association in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Commons.
- b. **Additional Charges.** In addition to any amounts due or any other relief or remedy obtained against a Member who is delinquent in the payment of any dues or assessments, each Member agrees to pay such additional costs, fees, charges and expenditures ("Additional Charges") as the Association or Managing Agent may incur or levy in the process of collecting from each member monies due and delinquent. All Additional charges shall be included in any judgment in any

action brought to enforce collection of delinquent dues or assessments on that Member. Additional Charges shall include, but not be limited to, the following:

1. Attorney's Fees: Reasonable attorney's fees and costs incurred in the event an attorney(s) is employed to collect any dues, assessment or sum due, whether by suit or otherwise.
  2. Late Charges: A late charge in an amount to be fixed by the Association to compensate the Association for Additional Collection costs incurred in the event any dues, assessment or other sum is not paid when due or within any "grace" period. The late charge shall not exceed ten percent (10%) of the delinquent assessment or twenty dollars (\$20), whichever is greater.
  3. Costs of Suit: Costs of suit and court costs incurred as allowed by the Court.
  4. Filing Fees: Costs of filing notice of lien in the Office of the Register of Deeds.
  5. Interest: Interest on all dues and assessments at the rate of sixteen percent (16%) per annum, commencing thirty (30) days after the assessment becomes due.
  6. Other: Any other costs that the Association may incur in the process of collecting delinquent dues and assessments.
- c. Lien. The dues and assessments shall be the personal obligation of the Member who is the Owner of the lot assessed at the time of the assessment and when shown of record shall be a lien upon the lot assessed.
- d. Fines. The Association may create a schedule of fines for violation of Association rules and regulations, which fines shall be treated and billed as a special assessment to the offending Member's Lot.

**Commencement of Dues:** Dues shall commence upon any of the following events: a) Property with a Certificate of Occupancy is transferred to a third party; b) Owner of a lot other than a Declarant obtains a Certificate of Occupancy; c) once a property owned by Declarant has a Certificate of Occupancy and is initially occupied.

## Article VI – Declarants Rights

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Until the Declarant no longer owns any Lot, it shall have the following rights specifically granted elsewhere in this Declaration.

**Use of and Entry Upon Properties and Lots:** Declarant reserves the right to use any of the Lots as models and to sell, assign, or conduct other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarant includes but is not limited to, the right to maintain models, erect signs, maintain an office with employees, and to show Lots situated within the Properties then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of Buildings and other improvements on the Property including, without limitation, the size, number and location of Lots still owned by the Declarant provided, that in all such cases, such changes shall be accomplished in a manner consistent with the

applicable laws and ordinances. Declarant reserves the right to enter upon and within any Living Unit, Lot, and Common Area in connection with any construction activity.

**Common Area Landscaping:** Unless otherwise under the control of the Association, Declarant reserves the right and is hereby vested with the sole control over all landscaping, plantings and the like in the Common Areas and the Lots within the Properties. Declarant shall have the right to change the plantings and other landscaping elements from time to time at its sole discretion.

**Conveyance:** Unless otherwise owned by the Association, the Declarant reserves the right to convey or cause the Association to convey a portion of the Common Area if necessary due to any encroachments thereon by any building.

**Additional Properties:** Without the consent of any other Owners, the Declarant may add to the Properties subject to this Declaration which shall be added by an appropriate supplement to this Declaration.

**Establishment of Association:** Declarant is and shall be responsible for all duties and obligations of establishing the Association hereunder and shall have all rights of the Association until the Association is established.

## Article VII – Insurance

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**Liability Insurance:** The Board of Directors of the Association shall obtain and maintain public liability and property damage insurance covering all Association Common Property, and insuring the Association, as its interest may appear, in such amounts as the Board of Directors of the Association may determine from time to time. Premiums for the payment of such insurance shall be paid by the Association and charged as a Common Expense.

**Casualty Insurance:** The Association shall obtain “all risk” insurance and vandalism and malicious mischief insurance, insuring all of the insurable Common Property, in and for the interest of the Association, with a company acceptable to the standards set by the Board of Directors of the Association in an amount equal to the maximum insurable replacement value as determined annually. The premiums for such coverage and other expenses in connection with said insurance placement shall be paid by the Association and charged as a Common Expense.

**Insurance Company:** All policies of insurance shall be written by reputable companies licensed to do business in the State of Nebraska.

**Deductible:** The deductible, if any, on the insurance policy purchased by the Association shall be an expense which may be levied as an assessment provided, however, that the Association may assess any deductible amount necessitated by the negligence, misuse or neglect of an Owner against such Owner. Funds for deductibles may be included in the Association’s reserves and be so designated.

**Insufficiency of Insurance Proceeds; Assessments:** If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a common expense and a special assessment therefore shall be levied.

**Surplus of Insurance Proceeds:** In the event there is a surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be retained by the Association as a reserve.

## Article VIII – General Provisions

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**Party Walls:** Each wall which is built as a part of the original construction of a dwelling within Properties and placed on the dividing line between two adjoining lots shall constitute a party wall.

The cost of reasonable repair and maintenance of a party wall shall be shared by the Lot Owners of the Lots who make use of a party wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any Lot Owner of a Lot who has used the wall may restore it. If any other Lot Owner subsequently makes use of the party wall, they shall contribute to the cost of restoration in proportion to such use. Notwithstanding any other provision of this paragraph, a Lot Owner who by their negligence or willful acts or omissions causes the party wall to be destroyed, damaged or otherwise exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements and the cost of restoration. The right of any Lot Owner to contribution from any other Lot Owner upon this paragraph shall be appurtenant to the land and shall pass to such Lot Owner's successors in interest.

Should a dispute arise concerning a party wall under these Covenants, the parties are encouraged to resolve their dispute pursuant to the Dispute Resolution Act, Neb. Rev Stat §25-2901 to 25-2920 prior to filing a lawsuit. No legal action with respect to party wall dispute shall be commenced or maintained unless and until the parties have utilized the Dispute Resolution Act.

**Enforcement of Declaration:** Except for the authority and powers specifically granted to the Declarant, the Declarant or any Lot Owner 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. The City shall have the right to enforce by proceedings at law or in equity all restrictive covenants and conditions regarding the maintenance of the Common Area. Failure by the Declarant, City of Lincoln or by any Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Amendment:** This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion. Any portion of this Declaration, may be amended by an instrument signed by the Lot Owners of Lots comprising no less than two-thirds (2/3) of the total votes of Lots covered by this Declaration.

**Assignment:** Declarant shall have the power to assign any or all of its rights and duties in this Declaration to a successor in interest or to the Association at such time as the Declarant deems appropriate, by filing a Notice of Assignment of Declarant Rights and Duties that delineates which rights and duties are being assigned. Declarant or its successor or assign may also terminate its status as Declarant under this Declaration in its entirety, at any time, by filing a Notice of Termination of Status as

Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant with respect to those remaining rights and duties the Declarant has not previously assigned to another entity, association or individual under a Notice of Assignment of Declarant Rights and Duties, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant with respect to those remaining rights duties.

**Termination of Covenants:** The covenants and restrictions of this Declaration shall run with and bind the land and the Lot Owners, their successors, assigns, heirs and devisees, for a term of thirty (30) years from the date this Declaration, after which time said Declaration shall be automatically extended for successive ten (10) year periods unless an instrument terminating this Declaration signed by the then Lot Owners of Lots comprising not less than seventy-five percent (75%) of the total votes of Lots covered by this Declaration has been recorded prior to the commencement of any ten year period.

**City Approval:** Notwithstanding the foregoing provisions, any instrument amending, modifying, abrogating or terminating this Declaration with respect to maintenance of the Common Area must be approved by the City of Lincoln City Attorney's office in writing and recorded with the Register of Deed before it shall be effective.

Dated: 8-29, 2016

Prairie Home Builders, Inc.

By: Robert D. Chamboux  
Robert D. Chamboux  
Vice President

STATE OF NEBRASKA )

) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 29 day of August, 2016 by, Name, President of Prairie Home Builders, Inc. on behalf of the Corporation.

Tammy L Tyler  
Notary Public

