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**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR BLUE SAGE CREEK, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BLUE SAGE CREEK (hereinafter referred to as the "Declaration") is made on this 1<sup>st</sup> day of December, 2017, by LANOHA PACIFIC, INC., a Nebraska corporation (hereinafter referred to as the "Declarant").

**PRELIMINARY STATEMENT**

The Declarant is the owner of the following legally described real property located in Douglas County, Nebraska, to-wit:

Lots 2 through 216, inclusive, Outlots A through J, inclusive, in Blue Sage Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (such lots are herein referred to collectively as the "Lots" and individually as a "Lot").

The Lots are situated in Blue Sage Creek, a residential subdivision situated in Douglas County, Nebraska, and herein referred to as "Blue Sage Creek." The Declarant desires to establish and assure a uniform plan for the development of the Lots and to enhance and protect the economic and aesthetic value and desirability of the Lots and the health, safety and welfare of the residents of the Lots. The Declarant further desires to provide for the maintenance of the character and residential integrity of Blue Sage Creek, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Blue Sage Creek.

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

ARTICLE I.  
DEFINITIONS

1. "Association" shall mean and refer to Blue Sage Creek Homeowners Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

2. "Owner" shall mean and refer to:

(a) The record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, and

(b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which the Seller retains title solely as security for the performance of the purchaser's obligation under the contract.

3. "Properties" shall mean and refer to:

Lots 2 through 216, inclusive, Outlots A through J, inclusive, in Blue Sage Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association, including, but not limited to, the property located and adjoining the subdivision to the west to be known as Phase II of Blue Sage Creek if the Declarant elects to include Phase II (as defined herein) to be subject to this Declaration.

4. "Lot" shall mean and refer to any platted Lot shown upon any recorded subdivision map of the Properties or one of two parcels resulting from a Lot split and Outlots all in the Subdivision.

5. "Improved Lot" shall mean and refer to any Lot included within the Properties upon which shall be erected a completed dwelling and a certificate of occupancy issued for such dwelling.

6. "Declarant" shall mean and refer to all persons and entities signing this instrument, their successors and assigns.

7. "Common Area" shall mean and refer to Outlots A through J, inclusive, Blue Sage Creek, and any improvements thereon, which Outlots shall be owned by either the Association or Sanitary and Improvement District No. 575 of Douglas County, Nebraska ("SID 575"), and any additional real property that is owned or acquired by the Association. The Association shall maintain those Outlots that are owned by the Association, and may maintain those Outlots that are owned by SID 575.

8. "Common Facilities" shall include parks (public or otherwise); dedicated and nondedicated roads, paths, ways and green areas; signs; and entrances for Blue Sage Creek, and other improvements and facilities owned by the Association and/or SID 575.

9. "Ground Floor Finished Living Area" shall mean the space of a dwelling at the ground level, as viewed from the front elevation, which is intended for human occupancy and is heated and cooled by a permanent system, has finishes consistent with that of a dwelling in a similar price point and is directly assessable from another finished living area. Said space is exclusive of attics, porches of any type, garages, porte-cocheres, storage areas, decks and patios.

10. "Period of Declarant Control" shall mean that period of time in which the Declarant will control all aspects of the Association and the development of Blue Sage Creek. The Period of Declarant Control shall commence with the recording of this Declaration and shall continue until: (i) the Declarant



elects, its sole discretion, to transfer, assign, relinquish or surrender its rights and status as Declarant under this Declaration by recording an instrument in the Office of the Douglas County Register of Deeds, or (ii) ten (10) years after the recording of this Declaration, whichever shall occur first. After the Period of Declarant Control, the Board of Directors of the Association shall be responsible for all aspects of the Association and the decisions to be made under and pursuant to this Declaration.

## ARTICLE II. RESTRICTIONS AND COVENANTS

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

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboard, dog house, pool house, flag pole, or other external improvement, including landscaping, 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 Declarant as follows:

(a) An Owner desiring to erect an Improvement on any Lot shall deliver one set of construction plans, detailed landscaping plans, and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

(b) As a means of defraying its expense, the Declarant may institute and require a reasonable filing fee to accompany the Application for each residential dwelling or other construction project submitted. Initially, the Declarant will require a \$1,000 debris and Lot restoration deposit up the receipt of an Application for any Lot within Blue Sage Creek. The \$1,000 debris and Lot restoration deposit shall be held by the Declarant pending the completion of the residential structure. In the event the Declarant is required, in its sole and absolute discretion, to expend funds to bring any Lot under construction in compliance with the Declaration, the Construction Guidelines or the Rules and Regulations, then the Declarant shall have the right to keep and retain all or a portion of the deposit to defray the costs incurred by the Declarant.

(c) Declarant shall review such plans in light of the conditions and restrictions in Article I of this Declaration and in relation to the architectural style and exterior of improvements of each home to be constructed or approved for construction on any Lot. In this regard, Declarant intends that each Lot shall be developed as a single-family residential community with dwellings constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in its sole discretion during the Period of Declarant Control, and in a manner to promote conformity and harmony of the external design of the improvements constructed within Blue Sage Creek subdivision and to protect the value, character and residential integrity and quality of all Lots in a manner consistent with this Declaration. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins will not be approved unless the Declarant determines that construction of these improvements will not be materially inconsistent with the architectural theme of development as contemplated by this Declaration. If Declarant determines that the external design and location of the proposed Improvement does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots within Blue Sage Creek and any neighboring lots, if any, as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(d) Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be



mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

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

(f) In addition to the architectural and development standards set forth in this Declaration, the Declarant may, from time to time, and in its sole discretion, draft, propose, adopt and amend certain standards and regulations to be known as Construction Guidelines. Such Construction Guidelines, and any amendments thereto, shall supplement, interpret and implement the provisions hereof by setting forth (a) the standards and procedures for Declarant review, and (b) guidelines for Improvements which shall include, but not be limited to, guidelines for architectural design of Improvements, site plans, floor plans, setbacks and building envelopes, exterior elevations for Improvements, height limitations, landscape plans, irrigation plans, color schemes, signage, exterior lighting, finishes and materials for use within Blue Sage Creek and the Property. The Construction Guidelines shall be initially adopted by the Declarant, and the Declarant shall have the right to amend the Design Guidelines at any time during the Period of Declarant Control. Thereafter, the Board of Directors of the Association may amend the Construction Guidelines with the approval of a majority of the outstanding votes of the Association. Notwithstanding any requirement or guidelines set forth in the Construction Guidelines, the Declarant shall, in its sole discretion, have the right, but not the obligation, to allow variances to the building requirements by granting a specific written variance.

(g) Landscape plans submitted: As per Subsection (a) above, all plans and specifications shall conform to the following standards:

- Plans shall indicate any grade changes, walls and berms.
- Each site shall be landscaped with a mixture of plant materials consisting of a representative sample of shade trees, ornamental trees, evergreen trees, evergreen shrubs, deciduous shrubs and perennials/groundcovers.
- Landscaping shall be installed during the first available planting season following substantial completion of the building.
- All swimming pool plans shall be approved by the Declarant and shall not extend more than one foot above ground level
- Minimum tree size is a 2" caliper B&B.
- No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant.
- No wall shall exceed a height of six (6) feet unless otherwise approved by Declarant.

(h) Fencing. In addition to the Construction Guidelines, all fencing adjacent to Blue Sage Drive must be: (i) six (6) feet in height, (ii) be Ornamental Iron or Aluminum, (iii) black in color, (iv) smooth top, 3-rail in style and (v) approved in writing by Declarant.

3. Basis for approval. The Declarant shall have the right to disapprove the Application submitted to it, if any part of it is:

- (a) not in accordance with this Declaration or the Construction Guidelines;
- (b) incomplete;



- (c) not in compliance with relevant approval requirements or regulations of local, state, federal or other governmental agencies;
- (d) deemed by the Declarant to be contrary to the best interests of Blue Sage Creek or the Owners; or
- (e) incompatible with the architectural style, quality or aesthetics of existing Improvements or development plans for proposed Improvements based in part on the criteria set forth below.

During the Period of Declarant Control, the Declarant shall have the right to withhold its approval of an Application submitted to the Declarant in its sole discretion. Thereafter, the Declarant and/or the Board of Directors of the Association, as the case may be, shall have the right to withhold its approval of an Application submitted in its reasonable discretion. In this connection, the Declarant may also base its approval or disapproval on criteria which may include, but are not limited to the following: (i) the adequacy of the building locations and dimensions on the Lot; (ii) conformity and harmony of external design with neighboring structures; (iii) relation of topography, grade and finish ground elevation of the Lot being improved to that of neighboring Lots; (iv) proper facing of main elevations with respect to nearby streets; (v) adequacy of landscaping; and (vi) conformity of the Application to the purpose and general plan and intent of this Declaration. The decision of the Declarant and/or Board, as the case may be, shall be final.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises 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. The foregoing restriction in this Article II, Section 4 shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, or its agents and assigns, during the development and sale of Lots.

5. No exterior television or radio antenna or satellite receiving dish of any type shall be permitted on any Lot. Notwithstanding the foregoing, an antenna or dish that is designed to receive over-the-air video programming signals that does not exceed one meter in diameter, and that is attached directly to the residence may be permitted provided that the location and size of the proposed antenna or dish is first approved by the Declarant or its assigns. No tree houses, tool sheds, dollhouses, windmills, exterior solar heating or cooling devices, or similar structures shall be permitted on any Lot.

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

7. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Article II, Section 8 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. All residential Lots shall provide at least



the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

8. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothesline shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

9. 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.

10. No tennis courts shall be allowed on any residential lots.

11. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. Grading plans must be submitted to and approved by Declarant prior to commencement of Improvements to any Lot. Declarant shall review the grading plans in light of commercially recognized development and engineering standards.

12. Commencing with completion of construction of any Improvement on a Lot, a public sidewalk constructed of concrete five (5) feet wide by four (4) inches thick shall be installed and maintained in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed a minimum of eight (8) feet and a maximum of seventeen and one-half (17.5) feet from the street curb line, in conformance with the master sidewalk plan. The sidewalk alignment shall be approved by Declarant prior to construction. After approval of the sidewalk alignment, the sidewalk shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

13. Repair or replacement of driveway approaches shall be of concrete and the responsibility of the Lot Owner. No asphalt overlay of driveway approaches will be permitted.

14. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Doghouses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot. No livestock or agricultural-type animals shall be allowed in Blue Sage Creek subdivision, including pot-bellied pigs.

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

16. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except parts of two or more platted Lots may be combined into one Lot provided that any proposed Lot combinations or administrative subdivisions must be approved by Declarant.

17. No temporary structure of any character, and no carport, trailer, modular home, open basement, storage shed, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other



non-prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside Blue Sage Creek to any Lot without the written approval of Declarant.

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

19. No tree situated upon any Lot may be moved, removed, cut or destroyed unless complete plans describing the exact tree or trees to be moved, removed, cut or destroyed, and the reason therefore, shall have been submitted to and approved in writing by Declarant in accordance with Section 2 of this Article II. For purposes of this Section, "tree" shall mean and refer to a tree of any type with a diameter larger than one (1) inch at a height of five (5) feet. Unless waived in writing by the Association, each Owner shall repair and maintain in good condition any and all trees, shrubs, and bushes placed in and along the public sidewalk easement area on their Lot. Should any of such trees, shrubs or bushes be removed, die, or deteriorate into a poor condition, the Owner of the Lot shall, at its expense, replace such trees, bushes or shrubs with trees, bushes or shrubs of the same or similar quality. In the event such replacement does not occur upon thirty (30) days written notice from either the Declarant or the Association, then either the Declarant or the Association may cause such replacement to occur and charge the owner of the Lot for such replacement as allowed hereinafter.

20. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion. The Lot Owner shall be solely responsible for the cost of any erosion control measures. The Lot Owner shall not materially change the grade or contour of any Lot and shall control the flow of surface water from its Lot so not to interfere with the drainage of any adjoining or downstream Lot.

### ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused or will cause the incorporation of BLUE SAGE CREEK HOMEOWNERS ASSOCIATION, a Nebraska not-for-profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Blue Sage Creek, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas (including landscaping); and signs and entrances for Blue Sage Creek. Common Facilities may be situated on property owned or leased by the Association within Blue Sage Creek subdivision, on private property subject to an easement in favor of the Association, on public property, or on property dedicated to a Sanitary and Improvement District.

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



(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Blue Sage Creek; and the protection and maintenance of the residential character of Blue Sage Creek.

2. Voting Rights. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period of time not to exceed sixty (60) days for any infraction by such Owner, or members of such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

3. Membership and Voting. Phase I of Blue Sage Creek is divided into one hundred thirty-five (135) residential lots (for purposes of Article II of this Declaration, the term "Lots" shall mean all of the residential lots which are included in the Association, including the Lots as defined in this Declaration). The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot 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. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

Every owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner and the Association is empowered to enforce the Covenants. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

Members holding one-tenth (1/10) of the votes entitled to be cast represented in person or by proxy shall constitute a quorum.

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

Class A: Class A Members shall be all Owners, including the Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities of both, shall be Members, provided however that the vote for such Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one (1) vote be cast with respect to any one Lot.

Class B: Class B Members shall be the Declarant or its successors and assigns which shall be entitled to thirty (30) votes for each Lot owned by the Declarant or its successors or assigns (in addition to Declarant's number of votes as a Class A member). The Class B membership shall terminate (with the Declarant or its successors and assigns then still entitled to one (1) vote for each Lot owned by the Declarant or its successors and assigns as a Class A member) upon the occurrence of the first of the following dates: (a) the date on which Declarant no longer owns any Lot; (b) the date Declarant shall elect, in its sole discretion, that the Class B membership cease and be converted to the Class A membership; or (c) December 31, 2040.

5. Purposes and Responsibilities. The Association shall have the powers conferred upon not-for-profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:



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

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks, public property, within or near Blue Sage Creek.

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

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(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.

6. Mandatory Duties of the Association. The Association shall:

(a) Maintain and repair the signs which have or will be installed by Declarant in good repair and neat condition;

(b) Maintain, repair, and replace as necessary all fences and trees, shrubs, and other natural barriers and green areas constructed on and along the mixed-use lots, so that such are in good repair and neat condition; and

(c) In the event any Owner of a Lot shall fail to perform and fulfill his obligations and responsibilities under Article II, Section 19 of this Declaration, and if such failure continues for thirty (30) days after written notice to the Owner from the Association, the Association shall perform or have performed such obligation or responsibility. If the Association undertakes to perform or have performed the responsibilities of the Owner, the cost of such performance plus a fifteen percent (15%) administrative charge shall be assessed against the Owner, and the Owner shall be obligated to promptly pay such sums to the Association. Assessment of such costs shall be made by written demand from the Association for payment by the Owner. If such assessment is not paid

within thirty (30) days after written demand from the Association, such assessment shall constitute a lien on the Lot, which lien shall attach, have the priority and be enforceable by the Association in the same manner as liens for assessments and dues as provided in this Article III.

(d) Maintain, repair, construct and replace the irrigation system constructed by the District and located within Blue Sage Creek.

#### ARTICLE IV. COVENANT FOR ASSESSMENTS

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

(a) Monthly assessments for the repair, maintenance and improvement of the Common Area, and operational expenses of the Association (the "Association Monthly Assessment"), and

(b) Special assessments for capital improvements, and

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

2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents of the Properties for the ownership, maintenance, construction, reconstruction and repair of the Common Area and the roadway, utilities and improvements within the Common Area for Blue Sage Creek and other matters as more fully set forth in this Declaration.

3. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Improved Lot any monthly maintenance Assessment for the purpose of meeting the requirements of Article IV herein.

4. Special Assessment for Capital Improvements. The Association may levy special assessments from time to time against an Improved Lot for the purpose of meeting the requirements of Article III herein for the costs of any construction, reconstruction, repair or replacement of an capital improvements on or within the Common Area, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

5. Notice and Quorum for any Action Authorized Under Section 1. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article IV shall be sent to all Members not less than ten (10) days or more than fifty (50) days in advance of such meeting. At the first of such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meeting shall be held within sixty (60) days following the preceding meeting.



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

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

8. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of a Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of Trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. Nor mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

9. 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.

10. Maximum Annual Dues. The maximum Association Monthly Assessments shall be set by its Board in accordance with its Bylaws. The Board of Directors shall be permitted to raise the annual dues, if necessary; however, such annual dues shall not exceed 125% of the aggregate dues charged in the previous calendar year.

#### ARTICLE V. EASEMENTS AND CHARGES

Other easements are provided for in the final plat of Blue Sage Creek which is filed in the Register of Deeds of Douglas County, Nebraska (Instrument No. \_\_\_\_\_).



ARTICLE VI.  
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. 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 for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty percent (60%) of the Lots covered by this Declaration.

3. By written consent of the Declarant for a period of five (5) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver, modification or amendment will have on Blue Sage Creek subdivision and the Owner requesting the waiver. Declarant's decision on any requested waiver, modification or amendment shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification, or amendment.

4. The Declarant reserves the right, without consent or approval of any other Owner or mortgagee, to expand the Association or amend this Declaration to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion(s) may be affected from time to time by Declarant or Declarant's assignee by recordation with the Register of Deeds of Douglas County, Nebraska of a Declaration of Covenants, Conditions, Restrictions and Easements, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration").

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


5. Declarant, 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, the 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.

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



IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 1<sup>st</sup> day of December, 2017.

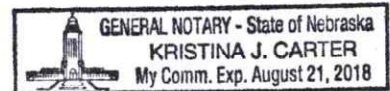
LANOHA PACIFIC, INC., a Nebraska corporation,

By   
David F. Lanoha, President

STATE OF NEBRASKA       )  
                                      ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of December, 2017, by David F. Lanoha, President of LANOHA PACIFIC, INC., a Nebraska corporation, for and on behalf of the corporation.

  
Notary Public





MISC Inst. # 2021139376, Pg: 1 of 13  
Rec Date: 10/21/2021 14:22:08.547  
Fee Received: \$82.00 By: LC  
NE Doc Stamp Tax Fee:  
Douglas County, NE, Assessor  
Register of Deeds DIANE L. BATTIATO

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR BLUE SAGE CREEK, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA  
(Phase 2)**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BLUE SAGE CREEK (hereinafter referred to as the "Declaration") is made on this 10 day of October, 2021, by LANOHA PACIFIC, INC., a Nebraska corporation (hereinafter referred to as the "Declarant").

**PRELIMINARY STATEMENT**

The Declarant is the owner of the following legally described real property located in Douglas County, Nebraska, to-wit:

**Blue Sage Creek 2** (RG)  
Lots 1 through 65, inclusive, Outlots A through D, inclusive, being a replatting of Lot 46 and Outlot A, in Blue Sage Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (such lots are herein referred to collectively as the "Lots" and individually as a "Lot").

The Lots are situated in Blue Sage Creek, a residential subdivision situated in Douglas County, Nebraska, and herein referred to as "Blue Sage Creek." The Declarant desires to establish and assure a uniform plan for the development of the Lots and to enhance and protect the economic and aesthetic value and desirability of the Lots and the health, safety and welfare of the residents of the Lots. The Declarant further desires to provide for the maintenance of the character and residential integrity of Blue Sage Creek, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Blue Sage Creek.

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

**ARTICLE I.  
DEFINITIONS**

**Return to:**  
**Larry A. Jobeun**  
**Fullenkamp, Jobeun, Johnson & Beller, LLP**  
**11440 West Center Road, Suite C**  
**Omaha, NE 68144**



1. "Association" shall mean and refer to Blue Sage Creek Homeowners Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

2. "Owner" shall mean and refer to:

(a) The record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, and

(b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which the Seller retains title solely as security for the performance of the purchaser's obligation under the contract.

3. "Properties" shall mean and refer to:

Lots 1 through 65, inclusive, Outlots A through D, inclusive, being a replatting of Lot 46 and Outlot A, in Blue Sage Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

*-Blue Sage Creek 2*

*(R6)*

together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association, including, but not limited to, the property located and adjoining the subdivision to the west to be known as Phase II of Blue Sage Creek if the Declarant elects to include Phase II (as defined herein) to be subject to this Declaration.

4. "Lot" shall mean and refer to any platted Lot shown upon any recorded subdivision map of the Properties or one of two parcels resulting from a Lot split and Outlots all in the Subdivision.

5. "Improved Lot" shall mean and refer to any Lot included within the Properties upon which shall be erected a completed dwelling and a certificate of occupancy issued for such dwelling.

6. "Declarant" shall mean and refer to all persons and entities signing this instrument, their successors and assigns.

7. "Common Area" shall mean and refer to Outlots A through J, inclusive, Blue Sage Creek, and any improvements thereon, which Outlots shall be owned by either the Association or Sanitary and Improvement District No. 575 of Douglas County, Nebraska ("SID 575"), and any additional real property that is owned or acquired by the Association. The Association shall maintain those Outlots that are owned by the Association, and may maintain those Outlots that are owned by SID 575.

8. "Common Facilities" shall include parks (public or otherwise); dedicated and nondedicated roads, paths, ways and green areas; signs; and entrances for Blue Sage Creek, and other improvements and facilities owned by the Association and/or SID 575.

9. "Ground Floor Finished Living Area" shall mean the space of a dwelling at the ground level, as viewed from the front elevation, which is intended for human occupancy and is heated and cooled by a permanent system, has finishes consistent with that of a dwelling in a similar price point and is directly assessable from another finished living area. Said space is exclusive of attics, porches of any type, garages, porte-cocheres, storage areas, decks and patios.

10. "Period of Declarant Control" shall mean that period of time in which the Declarant will control all aspects of the Association and the development of Blue Sage Creek. The Period of Declarant Control shall commence with the recording of this Declaration and shall continue until: (i) the Declarant elects, its sole discretion, to transfer, assign, relinquish or surrender its rights and status as Declarant under this Declaration by recording an instrument in the Office of the Douglas County Register of Deeds,

or (ii) ten (10) years after the recording of this Declaration, whichever shall occur first. After the Period of Declarant Control, the Board of Directors of the Association shall be responsible for all aspects of the Association and the decisions to be made under and pursuant to this Declaration.

## ARTICLE II. RESTRICTIONS AND COVENANTS

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

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboard, dog house, pool house, flag pole, or other external improvement, including landscaping, 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 Declarant as follows:

(a) An Owner desiring to erect an Improvement on any Lot shall deliver one set of construction plans, detailed landscaping plans, and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

(b) As a means of defraying its expense, the Declarant may institute and require a reasonable filing fee to accompany the Application for each residential dwelling or other construction project submitted. Initially, the Declarant will require a \$1,000 debris and Lot restoration deposit up the receipt of an Application for any Lot within Blue Sage Creek. The \$1,000 debris and Lot restoration deposit shall be held by the Declarant pending the completion of the residential structure. In the event the Declarant is required, in its sole and absolute discretion, to expend funds to bring any Lot under construction in compliance with the Declaration, the Construction Guidelines or the Rules and Regulations, then the Declarant shall have the right to keep and retain all or a portion of the deposit to defray the costs incurred by the Declarant.

(c) Declarant shall review such plans in light of the conditions and restrictions in Article I of this Declaration and in relation to the architectural style and exterior of improvements of each home to be constructed or approved for construction on any Lot. In this regard, Declarant intends that each Lot shall be developed as a single-family residential community with dwellings constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in its sole discretion during the Period of Declarant Control, and in a manner to promote conformity and harmony of the external design of the improvements constructed within Blue Sage Creek subdivision and to protect the value, character and residential integrity and quality of all Lots in a manner consistent with this Declaration. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins will not be approved unless the Declarant determines that construction of these Improvements will not be materially inconsistent with the architectural theme of development as contemplated by this Declaration. If Declarant determines that the external design and location of the proposed Improvement does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots within Blue Sage Creek and any neighboring lots, if any, as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(d) Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval



is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

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

(f) In addition to the architectural and development standards set forth in this Declaration, the Declarant may, from time to time, and in its sole discretion, draft, propose, adopt and amend certain standards and regulations to be known as Construction Guidelines. Such Construction Guidelines, and any amendments thereto, shall supplement, interpret and implement the provisions hereof by setting forth (a) the standards and procedures for Declarant review, and (b) guidelines for Improvements which shall include, but not be limited to, guidelines for architectural design of Improvements, site plans, floor plans, setbacks and building envelopes, exterior elevations for Improvements, height limitations, landscape plans, irrigation plans, color schemes, signage, exterior lighting, finishes and materials for use within Blue Sage Creek and the Property. The Construction Guidelines shall be initially adopted by the Declarant, and the Declarant shall have the right to amend the Design Guidelines at any time during the Period of Declarant Control. Thereafter, the Board of Directors of the Association may amend the Construction Guidelines with the approval of a majority of the outstanding votes of the Association. Notwithstanding any requirement or guidelines set forth in the Construction Guidelines, the Declarant shall, in its sole discretion, have the right, but not the obligation, to allow variances to the building requirements by granting a specific written variance.

(g) Landscape plans submitted: As per Subsection (a) above, all plans and specifications shall conform to the following standards:

- Plans shall indicate any grade changes, walls and berms.
- Each site shall be landscaped with a mixture of plant materials consisting of a representative sample of shade trees, ornamental trees, evergreen trees, evergreen shrubs, deciduous shrubs and perennials/groundcovers.
- Landscaping shall be installed during the first available planting season following substantial completion of the building.
- All swimming pool plans shall be approved by the Declarant and shall not extend more than one foot above ground level
- Minimum tree size is a 2" caliper B&B.
- No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant.
- No wall shall exceed a height of six (6) feet unless otherwise approved by Declarant.

(h) Fencing. In addition to the Construction Guidelines, all fencing adjacent to Blue Sage Drive must be: (i) six (6) feet in height, (ii) be Ornamental Iron or Aluminum, (iii) black in color and (iv) smooth top, 3-rail in style.

3. Basis for approval. The Declarant shall have the right to disapprove the Application submitted to it, if any part of it is:

- (a) not in accordance with this Declaration or the Construction Guidelines;
- (b) incomplete;

- (c) not in compliance with relevant approval requirements or regulations of local, state, federal or other governmental agencies;
- (d) deemed by the Declarant to be contrary to the best interests of Blue Sage Creek or the Owners; or
- (e) incompatible with the architectural style, quality or aesthetics of existing Improvements or development plans for proposed Improvements based in part on the criteria set forth below.

During the Period of Declarant Control, the Declarant shall have the right to withhold its approval of an Application submitted to the Declarant in its sole discretion. Thereafter, the Declarant and/or the Board of Directors of the Association, as the case may be, shall have the right to withhold its approval of an Application submitted in its reasonable discretion. In this connection, the Declarant may also base its approval or disapproval on criteria which may include, but are not limited to the following: (i) the adequacy of the building locations and dimensions on the Lot; (ii) conformity and harmony of external design with neighboring structures; (iii) relation of topography, grade and finish ground elevation of the Lot being improved to that of neighboring Lots; (iv) proper facing of main elevations with respect to nearby streets; (v) adequacy of landscaping; and (vi) conformity of the Application to the purpose and general plan and intent of this Declaration. The decision of the Declarant and/or Board, as the case may be, shall be final.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises 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. The foregoing restriction in this Article II, Section 4 shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, or its agents and assigns, during the development and sale of Lots.

5. No exterior television or radio antenna or satellite receiving dish of any type shall be permitted on any Lot. Notwithstanding the foregoing, an antenna or dish that is designed to receive over-the-air video programming signals that does not exceed one meter in diameter, and that is attached directly to the residence may be permitted provided that the location and size of the proposed antenna or dish is first approved by the Declarant or its assigns. No tree houses, tool sheds, dollhouses, windmills, exterior solar heating or cooling devices, or similar structures shall be permitted on any Lot.

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

7. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Article II, Section 8 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. All residential Lots shall provide at least



the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

8. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothesline shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

9. 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.

10. No tennis courts shall be allowed on any residential lots.

11. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. Grading plans must be submitted to and approved by Declarant prior to commencement of Improvements to any Lot. Declarant shall review the grading plans in light of commercially recognized development and engineering standards.

12. Commencing with completion of construction of any Improvement on a Lot, a public sidewalk constructed of concrete five (5) feet wide by four (4) inches thick shall be installed and maintained in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed a minimum of eight (8) feet and a maximum of seventeen and one-half (17.5) feet from the street curb line, in conformance with the master sidewalk plan. The sidewalk alignment shall be approved by Declarant prior to construction. After approval of the sidewalk alignment, the sidewalk shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

13. Repair or replacement of driveway approaches shall be of concrete and the responsibility of the Lot Owner. No asphalt overlay of driveway approaches will be permitted.

14. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Doghouses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot. No livestock or agricultural-type animals shall be allowed in Blue Sage Creek subdivision, including pot-bellied pigs.

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

16. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except parts of two or more platted Lots may be combined into one Lot provided that any proposed Lot combinations or administrative subdivisions must be approved by Declarant.

17. No temporary structure of any character, and no carport, trailer, modular home, open basement, storage shed, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other

non-prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside Blue Sage Creek to any Lot without the written approval of Declarant.

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

19. No tree situated upon any Lot may be moved, removed, cut or destroyed unless complete plans describing the exact tree or trees to be moved, removed, cut or destroyed, and the reason therefore, shall have been submitted to and approved in writing by Declarant in accordance with Section 2 of this Article II. For purposes of this Section, "tree" shall mean and refer to a tree of any type with a diameter larger than one (1) inch at a height of five (5) feet. Unless waived in writing by the Association, each Owner shall repair and maintain in good condition any and all trees, shrubs, and bushes placed in and along the public sidewalk easement area on their Lot. Should any of such trees, shrubs or bushes be removed, die, or deteriorate into a poor condition, the Owner of the Lot shall, at its expense, replace such trees, bushes or shrubs with trees, bushes or shrubs of the same or similar quality. In the event such replacement does not occur upon thirty (30) days written notice from either the Declarant or the Association, then either the Declarant or the Association may cause such replacement to occur and charge the owner of the Lot for such replacement as allowed hereinafter.

20. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion. The Lot Owner shall be solely responsible for the cost of any erosion control measures. The Lot Owner shall not materially change the grade or contour of any Lot and shall control the flow of surface water from its Lot so not to interfere with the drainage of any adjoining or downstream Lot.

### ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused or will cause the incorporation of BLUE SAGE CREEK HOMEOWNERS ASSOCIATION, a Nebraska not-for-profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Blue Sage Creek, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas (including landscaping); and signs and entrances for Blue Sage Creek. Common Facilities may be situated on property owned or leased by the Association within Blue Sage Creek subdivision, on private property subject to an easement in favor of the Association, on public property, or on property dedicated to a Sanitary and Improvement District.

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



(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Blue Sage Creek; and the protection and maintenance of the residential character of Blue Sage Creek.

2. Voting Rights. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period of time not to exceed sixty (60) days for any infraction by such Owner, or members of such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

3. Membership and Voting. Phase II of Blue Sage Creek is divided into sixty-four (64) residential lots (for purposes of Article II of this Declaration, the term "Lots" shall mean all of the residential lots which are included in the Association, including the Lots as defined in this Declaration). The Lots in Phase II are to be included as part of the Association, together with those Lots in Phase I of Blue Sage Creek. The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot 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. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

Every owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner and the Association is empowered to enforce the Covenants. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

Members holding one-tenth (1/10) of the votes entitled to be cast represented in person or by proxy shall constitute a quorum.

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

Class A: Class A Members shall be all Owners, including the Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities of both, shall be Members, provided however that the vote for such Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one (1) vote be cast with respect to any one Lot.

Class B: Class B Members shall be the Declarant or its successors and assigns which shall be entitled to thirty (30) votes for each Lot owned by the Declarant or its successors or assigns (in addition to Declarant's number of votes as a Class A member). The Class B membership shall terminate (with the Declarant or its successors and assigns then still entitled to one (1) vote for each Lot owned by the Declarant or its successors and assigns as a Class A member) upon the occurrence of the first of the following dates: (a) the date on which Declarant no longer owns any Lot; (b) the date Declarant shall elect, in its sole discretion, that the Class B membership cease and be converted to the Class A membership; or (c) December 31, 2040.

5. Purposes and Responsibilities. The Association shall have the powers conferred upon notforprofit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

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

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks, public property, within or near Blue Sage Creek.

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

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(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.

6. Mandatory Duties of the Association. The Association shall:

(a) Maintain and repair the signs which have or will be installed by Declarant in good repair and neat condition;

(b) Maintain, repair, and replace as necessary all fences and trees, shrubs, and other natural barriers and green areas constructed on and along the mixed-use lots, so that such are in good repair and neat condition; and

(c) In the event any Owner of a Lot shall fail to perform and fulfill his obligations and responsibilities under Article II, Section 19 of this Declaration, and if such failure continues for thirty (30) days after written notice to the Owner from the Association, the Association shall perform or have performed such obligation or responsibility. If the Association undertakes to perform or have performed the responsibilities of the Owner, the cost of such performance plus a fifteen percent (15%) administrative charge shall be assessed against the Owner, and the Owner shall be obligated to promptly pay such sums to the Association. Assessment of such costs shall be made



by written demand from the Association for payment by the Owner. If such assessment is not paid within thirty (30) days after written demand from the Association, such assessment shall constitute a lien on the Lot, which lien shall attach, have the priority and be enforceable by the Association in the same manner as liens for assessments and dues as provided in this Article III.

(d) Maintain, repair, construct and replace the irrigation system constructed by the District and located within Blue Sage Creek.

#### ARTICLE IV. COVENANT FOR ASSESSMENTS

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

(a) Monthly assessments for the repair, maintenance and improvement of the Common Area, and operational expenses of the Association (the "Association Monthly Assessment"), and

(b) Special assessments for capital improvements, and

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

2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents of the Properties for the ownership, maintenance, construction, reconstruction and repair of the Common Area and the roadway, utilities and improvements within the Common Area for Blue Sage Creek and other matters as more fully set forth in this Declaration.

3. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Improved Lot any monthly maintenance Assessment for the purpose of meeting the requirements of Article IV herein.

4. Special Assessment for Capital Improvements. The Association may levy special assessments from time to time against an Improved Lot for the purpose of meeting the requirements of Article III herein for the costs of any construction, reconstruction, repair or replacement of an capital improvements on or within the Common Area, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

5. Notice and Quorum for any Action Authorized Under Section 1. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article IV shall be sent to all Members not less than ten (10) days or more than fifty (50) days in advance of such meeting. At the first of such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the

preceding meeting. Any such subsequent meeting shall be held within sixty (60) days following the preceding meeting.

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

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

8. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of a Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of Trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. Nor mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

9. 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.

10. Maximum Annual Dues. The maximum Association Monthly Assessments shall be set by its Board in accordance with its Bylaws. The Board of Directors shall be permitted to raise the annual dues, if necessary; however, such annual dues shall not exceed 125% of the aggregate dues charged in the previous calendar year.

#### ARTICLE V. EASEMENTS AND CHARGES

Other easements are provided for in the final plat of Blue Sage Creek, Phase 2, which is filed in the Register of Deeds of Douglas County, Nebraska (Instrument No. 2021134672).



ARTICLE VI.  
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. 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 for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty percent (60%) of the Lots covered by this Declaration.

3. By written consent of the Declarant for a period of five (5) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver, modification or amendment will have on Blue Sage Creek subdivision and the Owner requesting the waiver. Declarant's decision on any requested waiver, modification or amendment shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification, or amendment.

4. The Declarant reserves the right, without consent or approval of any other Owner or mortgagee, to expand the Association or amend this Declaration to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion(s) may be affected from time to time by Declarant or Declarant's assignee by recordation with the Register of Deeds of Douglas County, Nebraska of a Declaration of Covenants, Conditions, Restrictions and Easements, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration").

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

5. Declarant, 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, the 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.

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

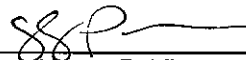
IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 20 day of OCTOBER, 2021.

LANOHA PACIFIC, INC., a Nebraska corporation,

By   
David F. Lanoha, President

STATE OF NEBRASKA       )  
                                      ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 20 day of OCTOBER, 2021, by David F. Lanoha, President of LANOHA PACIFIC, INC., a Nebraska corporation, for and on behalf of the corporation.

  
Notary Public

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| State of Nebraska – General Notary<br>CASSANDRA PREISTER<br>My Commission Expires<br>November 19, 2024 |
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