

Prepared By:
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANTS OF EASEMENT

This Declaration made this 5th day of July, 2018, by Karl M. Schenk and Nancy P. Schenk, husband and wife, of 44352 308th Street, Mission Hill, South Dakota 57046, (hereinafter referred to as "Developer") being the owner of the following described property, to-wit:

The Northwest Quarter (NW1/4), the North Half of the Southwest Quarter (N1/2 SW1/4), the South Half of the Southeast Quarter (S1/2 SE1/4) and the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE1/4 SE1/4 SW1/4) excepting only Tract B-233 in the South Half of the Southwest Quarter (S1/2 SW1/4), all in Section Sixteen (16), Township Ninety-three (93) North, Range Fifty-Seven (57) West of the 5th P.M., Yankton County, South Dakota.

WHEREAS, Developer desires to provide for the preservation of values and amenities for the aforementioned property and to promote the health, safety, and welfare of owners of the aforementioned property by placing restrictive covenants, conditions and restrictions running with the land on said property;

WHEREAS, the Lot owners may form a homeowners' association which shall be entitled **Lake Forest Estates Homeowner's Association** for the purposes of construction and maintenance of rights of way and other common areas, fixing assessments and charges to be levied against the aforementioned property and enforcing these Declarations and each and everything necessary, suitable, incidental to or proper for the accomplishment of these and similar purposes.

NOW THEREFORE, the Developer hereby declares the following Declarations of Covenants, Conditions, Restrictions and Easements Running with the Land, and the

aforementioned property, shall be subject thereto, and all conveyances of the said property shall be subject thereto and all parties having or acquiring any right, title or interest and all grantees shall be deemed to have consented to the same.

ARTICLE I DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) “Association” shall mean and refer to a homeowners’ association that may be formed by owners of the lawfully platted and sold Lots and shall entitled Lake Forest Estates Homeowners’ Association for the purposes of construction and maintenance of rights of way and other Common Areas, fixing assessments and charges to be levied against the properties, and enforcing these Declarations and each and every thing necessary, suitable, incidental to or proper for the accomplishment of these and similar purposes.
- (b) “Common Area” shall mean all properties (including the improvements thereto) owned by the Developer or Association for the common use and enjoyment of the Owners, together with all lawfully dedicated streets, roads, and public rights of way as set forth in the Preliminary Plat drawing attached hereto as Exhibit A..
- (c) “Declaration” shall mean and refer to the Declaration of Covenants, Conditions and Restrictions Running with the Land applicable to the properties recorded in the office of the Register of Deeds, Yankton County, South Dakota.
- (d) “Developer” shall mean and refer to Karl M. Schenk and Nancy P. Schenk, their successors and assigns as owners of the unplatted remainder of the Lake Forest Estates Subdivision as set forth in the Preliminary Plat drawing attached hereto as Exhibit A.
- (e) “Lot” shall mean and refer to any lot within the Lake Forest Estates Subdivision that has been lawfully platted and approved by the Yankton County Commission and recorded on file in the office of the Register of Deeds, Yankton County, South Dakota, located in the Northwest Quarter (NW1/4), the North Half of the Southwest Quarter (N1/2 SW1/4), the

South Half of the Southeast Quarter (S1/2 SE1/4) and the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE1/4 SE1/4 SW1/4) excepting only Tract B-233 in the South Half of the Southwest Quarter (S1/2 SW1/4), all in Section Sixteen (16), Township Ninety-three (93) North, Range Fifty-Seven (57) West of the 5th P.M., Yankton County, South Dakota. The term "Lot" shall not apply or refer to any portion of such land that has not been lawfully platted and sold by the Developer. All lots that will eventually be subject to the terms of this Declaration of Covenants, Conditions, and Restrictions and Grants of Easement upon lawfully platting and sale are set forth in the Preliminary Plat drawing attached hereto as Exhibit A.

- (f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lawfully platted lot of the Lake Forest Estates Subdivision, but excluding those having such interest merely as security or collateral for the performance of an obligation.
- (g) "Properties" shall mean and refer to that certain real property described in the Declaration.

ARTICLE II PROPERTY RIGHTS

Each Lot within the Lake Forest Estates Subdivision shall be bound and subject to the following restrictions:

1. Each individual Lot shall be utilized primarily for residential purposes and shall contain a single family private dwelling home with a minimum of One Thousand Eight Hundred (1,800) finished square feet on the ground floor, plus an attached garage of no less than two vehicle stalls, with no more than one "outbuilding" and one "accessory structure", and shall conform in design and architectural construction to the design of the other permitted dwellings on the other Lots within the subdivision. No outbuilding or accessory structure may be constructed without a separate residential home constructed upon the property.

2. The outbuilding shall be limited to a "Morton" brand building only, and in no event shall be larger than sixty (60) feet by eighty (80) feet and must have a roof pitch of 6/12 and no less than two feet (2') of roof overhang beyond all side and end walls (unless otherwise approved by the developer). The Morton brand building shall be constructed, formed or sided with an earth-tone color metal sheeting, and in no event shall be the color of galvanized steel. Buildings not conforming in design and

architectural construction of the permitted dwelling maybe permitted only with the written permission of the developer.

3. The accessory structure shall be no larger than ten feet by twelve feet (10' x 12') and must have a roof pitch of 6/12 and no less than one foot (1') of roof overhang beyond all side and end walls (unless otherwise approved by the developer). The accessory structure shall be constructed, formed or sided with an earth-tone color similar to that of the primary residence. Buildings not conforming in design and architectural construction of the permitted dwelling maybe permitted only with the written permission of the developer.

4. No construction, improvement, or alteration of any structure, single family private dwelling home, outbuilding, dog kennel, dog house, horse stable, horse shelter, or fence shall be made, erected, altered, placed or permitted on the Lots without such request being submitted and approved in writing by the Developer, or by the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

5. Only earth tone colors shall be permitted on any structure, single family dwelling home, garden shed or pool house no larger than ten feet by twelve feet (10' x 12'), dog kennel, dog house, horse stable, horse shelter, or fence on the Lots except as approved in writing by the Developer, or by the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

6. No other livestock is allowed upon any Lot, excepting only as follows: One (1) horse per six (6) contiguous acres owned by the Owner of record.

7. Dogs and cats are permitted, but must be fenced or restrained upon any Lot. A maximum collective total of four (4) dogs and cats are allowed, no breeding kennels are allowed upon any Lot.

8. No junk motor vehicles, abandoned motor vehicles, and scrap metal as those terms are defined under SDCL Chap. 32-36, unlicensed motor vehicles, and inoperable motor vehicles are allowed upon any Lot.

9. No Lot shall be subdivided without the written permission of the original Developer, or of the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

10. Construction, improvement or alteration of any structure, single family private dwelling home, outbuilding, dog kennel, dog house, horse stable, horse shelter, or fence upon or surrounding any Lot shall be completed within one year from the date of commencement of said construction, improvement or alteration.

11. All plumbing, heating, electrical wiring, and other construction upon each Lot shall conform with the then-current South Dakota Building Codes as adopted by the State of South Dakota, Yankton County, and all applicable governmental subdivisions and agencies.

12. No structure, single family private dwelling home, outbuilding, dog kennel, dog house, horse stable, horse shelter (excluding a boundary fence) shall be located less than twenty feet (20') from any side yard property line, twenty feet (20') from any backyard property line and thirty feet (30') feet from the inner boundary of the Private Road as depicted upon the Exhibit A Preliminary Plat drawing.

13. Easements for purposes of ingress and egress are hereby expressly created and effective only upon the legal platting and sale of each Lot in accordance in the location of the sixty-six foot (66') Private Road as set forth upon the Exhibit A Preliminary Plat drawing for the benefit of each such lot and only for purposes of permitting the owners of each Lot to access their respective Lot over and across the Private Road from the Lot only to the northern boundary of the development in accordance with the Exhibit A Preliminary Plat drawing. The ingress and egress easement rights do not grant any rights of access for any Lot owner to access any portion of the Private Road lying South of the Lot owner's respective Lot within the development.

14. Utility easements are hereby expressly created and effective only upon the legal platting and sale of each Lot for the installation, construction and maintenance of utilities, including but not limited to gas, water, telephone, electricity, fiber optics, cable television and/or internet, sewer and drainage, in the areas dedicated for such purposes depicted upon the Exhibit A Preliminary Plat, as well as an area equal to fifteen feet (15') around the entire boundary of each Lot within the development.

15. No manufactured home, including but not limited to trailers or mobile homes, or structures of any kind of what is commonly known as "off-site pre-manufactured construction" shall be placed or built on the properties to be used as a temporary or permanent residence without approval in writing from the Developer, or from the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

16. No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational or otherwise, designed for profit, charity or otherwise, shall be conducted, maintained or permitted without approval in writing from the Developer or from the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing. Notwithstanding the foregoing, the owner of the unplatted portion of the development may actively farm or sublease for agricultural purposes any portion of land within the area depicted as part of the Lake Forest Estates Subdivision land not lawfully platted and sold to an end-purchaser for construction of a single family dwelling. The owners of the Lots hereby waive any claim of nuisance or otherwise relating to such agricultural use of the unplatted portions of the development land, as well as the land surrounding the development. In addition, the owners hereby grant a covenant to and for the benefit of all surrounding property not within the Lots as platted and sold by the Developer containing agricultural activities or an animal feeding operation as defined by the Yankton County Zoning Ordinance in force at the time of the execution of these covenants for the continuation of such activities or animal feeding operations conducted thereon.

17. Each Lot shall be limited to one (1) dog house, dog kennel, or horse shelter, which shall constitute the accessory structure or outbuilding and shall be constructed only in accordance with Sections 2 or 3 above. Such structure shall be exclusively limited to the rear yard of the primary residence and concealed from view from the Private Road. The design and architectural construction shall conform to the design of the permitted single family private dwelling and shall first be approved by the Developer, or by the Association if such association is formed and the Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

18. All fences shall be constructed of cedar split rails, aluminum or wrought iron, or poly vinyl whiteboard. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted, except a sign designating the housing development place by the Developer or the Association, excepting only one (1) sign per Lot consisting of not more than six square feet advertising a Lot as "For Sale".

19. No Lot shall be used for the hosting of any organized event for athletic, shooting or other activity opened to the general public or to the members of any organization or club.

20. The Developer or Association shall not be liable for the erection and maintenance of partition fences on the properties as provided for in South Dakota

Codified Laws. The Owners of the Lots waive any claim for contribution or injunctive relief against the Developer or the Association regarding the construction of any partition fence.

21. The Owners shall keep their respective Lot(s), together with adjoining rights of way, mowed and in a clean and neat condition, free and clear of refuse, waste, rubble, debris, trash, yard waste, garbage or noxious weeds.

22. No repair of any boat, automobile, motorcycle, truck, camper or similar vehicle requiring a continuous time period in excess of forty-eight (48) hours shall be permitted at any time upon any Lot, except within a fully enclosed structure; nor shall any vehicle offensive to the neighborhood be visibly stored, parked or abandoned on the premises, except within a fully enclosed structure.

23. No unused building material, junk or rubbish shall be left exposed on a lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

24. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards or driveways of any Lot or street. However, this shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of single family private dwelling during the period of construction.

25. No division, alteration, change or damming of water is permitted upon any of the Lots.

26. No burning of garbage or open fire of any type including the ignition of fireworks or other pyrotechnics shall be permitted upon any of the Lots.

27. All garbage accumulated upon any of the Lots shall be kept in closed receptacles and shall be picked up and removed by a licensed garbage collector.

28. Exterior lighting installed on each Lot shall either be indirect or of such a controlled focus and intensity as not to disturb any of the other Owners.

29. The Owners shall pay all reasonable costs associated with the development, maintenance, repair or replacement of any common area at the discretion of the Developer or as lawfully directed by the Association, if such association is lawfully formed.

30. In the event that a homeowner's association is formed, the Owners shall be deemed to have consented thereto and have waived any objection to the formation of the Association and of all obligations to financially participate as lawfully directed by such Association.

31. Any person, heir, representative, or assign, acquiring right, title or interest in and to any of the Lots, who shall violate any part of these Declarations, shall be subject to prosecution at law or in equity by the Association or Developer for the recovery of damages and/or for injunctive relief from violations or unless otherwise agreed by the parties to arbitrate as hereinafter set forth.

32. In the event that a disagreement, dispute or controversy results from the terms hereof, the parties shall within thirty (30) days of such disagreement, dispute or controversy submit the same to a three-person panel of which one member each is selected by each of the disputing parties and the third member is selected by the two members already selected by the parties.

33. The Developer hereby reserves the exclusive right to amend these Declarations at any time in a writing recorded with the Yankton County Register of Deeds, until such time as Developer has fully and lawfully platted and sold all Lots as contemplated in the Exhibit A Preliminary Plat drawing.

34. The Association, and each Lot owner, its heirs, successors, and assigns acknowledge by this covenant that the above-referred property is within or adjacent to agriculturally zoned lands and, therefore, the adjacent lands may be subjected to conditions resulting from agricultural operations or livestock feeding operations; that such operations include the raising of livestock, operation of machinery, growing of crops, and other farm-related operations, and that they purchase such Lots understanding and accepting of such operations. The Association and each Lot owner also acknowledge that Developer shall have the right to continue to farm the areas not yet lawfully platted as a Lot and sold to an end-purchaser for construction of a single family dwelling.

35. These covenants shall run with the land and are fully binding upon and shall inure to the benefit of Owners and all heirs successors and assigns of all the Lots whenever the same may be lawfully platted as contemplated herein.

36. The Association may be formed by the owners of the Lots only with the written consent of the Developer. Any such association shall be entitled the Lake Forest Estates Homeowners' Association and shall be formed solely for the purposes of construction and maintenance of rights of way, fixing assessments and charges to be

levied against the properties, and enforcing these Declarations and each and every thing necessary, suitable, incidental to or proper for the accomplishment of these and similar purposes. Under no circumstances shall the Association have any authority to assess charges against any portion of the property not lawfully platted and sold by the developer. No owner of any platted and sold Lot shall refuse to be member or bear their Lot's equitable share of assessments for purposes of maintaining the common areas.

37. The Developer shall have no obligation whatsoever regarding any construction or maintenance of the Common Areas within the development or servicing the Lots.

[Remainder of page intentionally left blank – Signatures on Following Page.]

IN WITNESS WHEREOF, the undersigned, being the Developer herein has
executed this Declaration this _____ day of _____, 2018.

By: _____
Karl M. Schenk

By: _____
Nancy P. Schenk

STATE OF SOUTH DAKOTA)
 :§
COUNTY OF YANKTON)

On this _____ day of _____, 2018, before me, before me, the
undersigned officer, personally appeared **Karl M. Schenk and Nancy P. Schenk,
husband and wife**, known to me or satisfactorily proven to be the persons described
in the foregoing instrument, and acknowledged that they executed the same in the
capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(Seal)

Notary Public
My Commission Expires: