

RETURN TO:
Steve Farrell
Investors Realty, Inc.
11301 Davenport Street
Omaha, NE 68154

DECLARATION OF PROTECTIVE COVENANTS

RECORDED BY
SECURITY LAND TITLE COMPANY
T-9810466

Seechol Properties II, a Nebraska general partnership, being the owner of certain real property located at 144th and Maple, Omaha, Nebraska, described as Lots 1, 2 and 3 in Hillsborough Replat II, a subdivision as surveyed, platted and recorded in the Office of the Register of Deeds for Douglas County, Nebraska, at Book 1940, Page 359 on December 28, 1992, and that certain real estate described on the attached Exhibit "A" (collectively the "Development Property"), and having established a general plan for the improvement and development of the Development Property, hereby establishes the following covenants, conditions, reservations and restrictions upon which and subject to which the Development Property shall be improved, sold and conveyed. Each and every one of the covenants, conditions, reservations and restrictions as hereinafter enumerated, and as they may be amended from time to time, is and are for the benefit of each owner of any portion of the Owner's Property, and shall inure to the benefit and pass with each and every subplot included within the Owner's Property and shall bind the respective successors in interest thereof, and all of which are to be construed as restrictive covenants running with the land as to the several lots included within the Development Property.

1. Definitions. When used in this Declaration, the following terms have the meanings set forth below.

1.1. "Owner" shall mean the owner of fee simple title to the real property described as Lots 2 and 3 in Hillsborough Replat II, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, and including the real estate described in Exhibit "A" (the "Owner's Property"), except that such term shall not include any person holding title as a trustee under a trust deed or otherwise holding legal title for security purposes and shall initially mean Seechol Properties II, a Nebraska general partnership.

1.2. "Declaration" shall mean this Declaration of Protective Covenants, as may be modified or amended from time to time.

1.3. "Restrictions" shall mean the covenants, conditions, reservations and restrictions contained in this Declaration.

1.4. "Lot 1" shall mean the real estate described in Exhibit "B" attached hereto and made a part hereof.

2. **Prior Restrictions.** Neither the Development Property nor any part thereof or interest therein shall be used or leased for, and no person with any interest in the Development Property shall suffer or permit the use or lease of the Development Property or any part thereof for any purpose or in any manner not permitted by the Declaration executed by Maple North Enterprises, Inc., a Nebraska corporation, as of January 23, 1992, and recorded with the Douglas County, Nebraska Register of Deeds on January 23, 1992, in the Miscellaneous records in Book 994 at pages 167-174.

3. **Structural Dimensions.** No structure, improvement or appurtenances on the Lot 1 shall exceed the height of a standard one-story building or exceed an exterior length or depth (measured from the furthest corners of any structures constructed or placed upon Lot 1) of 140 feet.

4. **Exterior.** The exterior finish of any structure or building located on Lot 1 shall be constructed of clay bricks, and the exterior of any such structure, building or any other improvements on Lot 1 shall generally conform to the design, color and appearance of any other buildings located or planned to be located on the Development Property. Cement block, cinder block, hollow tile and other types of structural building materials are not acceptable construction materials for any structure on Lot 1 at or above ground level unless such material is covered with clay brick.

5. **Improvements.** Detailed plans and specifications for all structures, improvements and to any part of the Development Property (including, without limitation, exterior elevations, materials, colors, signs and grading) must be submitted in writing to Owner, its duly authorized representative, or its successors or assigns, for written approval as to quality of workmanship and materials, and harmony with the external design, size, location and existing or planned structures on the Development Property. No improvements, structures or appurtenances shall be constructed, erected, placed, altered, maintained or permitted on the Development Property until plans and specifications therefor have been approved by the Owner and then only in accordance with those approved plans and specifications. All buildings within the Development Property shall be constructed in accordance with good and generally accepted construction, engineering and architectural standards and principles and comply with all laws, rules, regulations, orders, and ordinances of governmental agencies exercising jurisdiction thereover.

6. **Use.** No noxious, offensive or dangerous trades, services or activities shall be conducted on Lot 1 and nothing shall be done on Lot 1 which may be or become an annoyance or nuisance to the Owner's Property, its Owner or any tenant or invitee of such Owner by reason of unsightliness, excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise, except during and as part of construction of improvements on Lots 1. Unless otherwise approved in advance in writing by the Owner, all buildings and improvements shall be limited for use as retail sales or general business and professional offices.

7. **Outside Storage.** All outside waste, rubbish or storage facilities permitted on Lot 1 by the Owner shall be fully enclosed and visually screened from all sides in a manner acceptable to Owner.

8. Signage. No signs shall be erected, placed, altered, or permitted on any part of the Development Property until the type, size, height, design, number and location thereof have been approved by the Owner. The square footage permitted under the City of Omaha's zoning ordinances for signage on the Development Property shall be aggregated and the square footage allocated to Lot 1 shall be the lesser of 475 sq. ft. or such square footage as would be allocated without this Agreement, the balance to be apportioned among the lots constituting the balance of the Development Property (excluding Lot 1) as Owner may determine.

9. Service Station. Notwithstanding anything to the contrary otherwise contained herein, for a period of 15 years after the recording of this Declaration, Lot 1 shall be used solely for a full-service gas station with canopy and related petroleum equipment, mechanical auto repair, drive-through carwash and convenience store with off-sale beer ("Service Station"), and for no other purposes; provided, however, Lot 1 may be used for such other purposes not in conflict with the uses of any other tenants, occupants or owners of all or part of the Development Property upon Owner's prior written consent, which consent shall not be unreasonably withheld. If a Service Station is then operating on Lot 1, then for a period of 15 years after the recording of this Declaration, Owner shall prohibit the use of the Development Property (except on Lot 1) for any of the uses reserved to Lot 1 in this Section 9.

10. Landscaping. All open, unpaved space on Lot 1 shall be landscaped in accordance with a plan submitted to and approved in writing by the Owner prior to any development of each respective lot. Such landscape plan shall include a description of the type of sodding, seeding, trees, hedges and shrubs, and information regarding other customary landscape treatment for the entire lot including fences, walls and screening. All landscaping shall be undertaken, revised and completed in accordance with such approved plan and such plan may not be modified without the prior written consent of the Owner. All approved landscaping shall be completed

within 60 days after the substantial completion of construction of any building on such lot; provided, however, if weather conditions do not permit, then such landscaping shall be completed as soon thereafter as weather conditions permit.

11. **Maintenance.** All buildings, improvements and appurtenances (including, without limitation, structures, windows, landscaping, sidewalks and drives) on Lot 1 shall at all times be maintained by the fee owner thereof in good and clean condition and repair.

12. **Variances.** Except for the exclusive rights granted to Lot 1 in Section 9 hereof, the Owner may, at its discretion, waive or grant variance in any one or more Restrictions contained in this Declaration.

13. **Enforcement.** If Owner deems any person to be in violation of this Declaration, Owner shall notify the person with fee ownership of the relevant lot. If the person with such fee ownership does not cure such violation within 60 days after such notice is sent, the terms and conditions of this Declaration may be enforced by the Owner by (i) taking such action as it deems appropriate to correct any violation hereof and assessing the cost thereof against the part of the Development Property for which such corrective action was implemented or (ii) obtain specific performance or injunctive relief requiring the persons with an interest in any such part of the Development Property to take such corrective action. If Owner takes no action to enforce the exclusive rights granted to Lot 1 in Section 9 hereof, the fee owner of Lot 1 may take such action to enforce such exclusive rights as are otherwise granted Owner by this Section 13.

14. **Nuisance.** Any violation of the restrictions contained herein or any part thereof shall be deemed and is hereby declared a nuisance and every public and private remedy allowed therefor by law or equity against the title holder of any such portion of the Development Property and may be exercised by the Owner. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

15. **No Dedication.** Nothing contained in this Declaration will be deemed to be a gift or dedication of any portion of the Development Property to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Declaration will be strictly limited to and for the purposes expressed herein.

16. **Waiver of Claims.** The Owner and its employees, agents and representatives acting in good faith shall not be liable for damages to any person submitting plans to or for its approval, or to any person with an interest in any part of the Development Property or any property affected by this Declaration, by reason of mistake in judgment, negligence, or malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans or specifications.

17. **Waiver: Duty.** The failure or refusal of Owner to enforce any of the Restrictions shall in no event be deemed a waiver of the right to do so for subsequent violations, or of the right to enforce any other Restrictions. Owner shall incur no liability to any person with an interest in the Development Property or any other person should the Owner fail or refuse to enforce or continue to enforce any Restriction.

18. **Term.** This Declaration and Restrictions shall continue in full force and effect until terminated, amended or modified in whole or in part by the written consent of persons owning 75 percent of the area of the Development Property; provided, however, that the exclusive rights granted Lot 1 pursuant to Section 9 hereof may not be terminated, amended or modified without the written consent of the owner thereof. Such termination, amendment or modification shall be immediately effective upon recording a proper instrument in writing, executed and acknowledged by such persons as required to so act in the office of the Register of Deeds of Douglas County, Nebraska.

SEECHOL PROPERTIES II, a Nebraska
general partnership, Owner

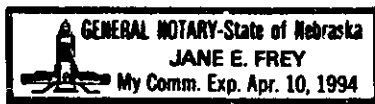
By: [Signature]
Thomas L. Nichols, General Partner

By: [Signature]
Lee D. Seemann, Jr., General Partner

By: [Signature]
Stephen M. Farrell, General Partner

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this
18th day of February, 1993 by Thomas L. Nichols, Lee D. Seemann,
Jr., and Stephen M. Farrell, being all of the general partners of
Seechol Properties II, a Nebraska general partnership, on behalf
of the Partnership.



[Signature]
Notary Public

My Commission Expires April 10, 1994

PJV/hlr

EXHIBIT "A"

A tract of land located in the Southwest Quarter of the Southwest Quarter of Section 1, Township 15 North, Range 11 East of the Sixth Principal Meridian, Douglas County, Nebraska, described as follows:

Referring to the Southwest Corner of said Quarter Quarter Section; thence easterly a distance of 1,322.37 feet along the South Line of said Quarter Quarter Section; thence northerly deflecting 089 degrees, 57 minutes, 44 seconds left, a distance of 121.70 feet to the point of beginning; thence westerly deflecting 084 degrees, 04 minutes, 00 seconds left, a distance of 563.34 feet; thence westerly deflecting 012 degrees, 13 minutes, 02 seconds left, a distance of 403.11 feet; thence westerly deflecting 014 degrees, 40 minutes, 35 seconds left, a distance of 107.70 feet; thence easterly deflecting 163 degrees, 54 minutes, 33 seconds left, a distance of 201.00 feet; thence easterly deflecting 002 degrees, 50 minutes, 53 seconds right, a distance of 600.75 feet; thence easterly deflecting 005 degrees, 03 minutes, 20 seconds right, a distance of 261.31 feet to the point of beginning containing 29,722.32 square feet, more or less.

There will be no ingress or egress over the following described controlled access line located in the Southwest Quarter of the Southwest Quarter of Section 1, Township 15 North, Range 11 East of the Sixth Principal Meridian, Douglas County, Nebraska.

Referring to the Southwest Corner of said Quarter Quarter Section; thence easterly a distance of 1,322.37 feet along the South Line of said Quarter Quarter Section; thence northerly deflecting 089 degrees, 57 minutes, 56 seconds left, a distance of 261.31 feet; thence westerly deflecting 005 degrees, 03 minutes, 20 seconds left, a distance of 600.75 feet; thence westerly deflecting 002 degrees, 50 minutes, 53 seconds left, a distance of 201.00 feet to the point of termination.

CASH 3990^H BK 1659 R 1-15-11 FB 016000? *MC-16532*
 TYPE MISC PG 230-237 C/O COMP VP MSCAN *JM*
 FEE 50 OF MISC LEGL PG 237 MC FV

GEORGE I. BOULEWICZ
 REGISTER OF DEEDS
 DOUGLAS COUNTY, NE

FEB 24 11 32 AM '93

RECEIVED