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Vanetta M Nigro  
23402 Harrison St.  
Gretha, NE 68028-4103

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**Gardiner Acres  
Covenants**

FIRST DECLARATION  
OF CONVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF GARDINER ACRES, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA

THIS FIRST DECLARATION made on the date hereinafter set forth by DON GARDINER, hereinafter referred to as the "Declarant," to that Certain Declaration of Covenants, Conditions, Restrictions and Easements by Declarant dated \_\_\_\_\_ and recorded as Document Number \_\_\_\_\_ of the register of Deeds of Douglas County, Nebraska.

PRELIMINARY STATEMENT

Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 5, inclusive in Gardiner Acres, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "lots" and individually as each "Lot".

NOW THEREFORE, Declarant hereby declares that each lot of the Subdivision shall be held, sold and conveyed subject to the following covenants, conditions, restrictions 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 covenants, conditions, restrictions 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. Each Lot is and shall be subject to all and each of the following conditions and other terms:

AFTER RECORDING RETURN TO:

Don Gardiner  
17011 Cedar Plaza 12B  
Omaha, Ne 68130

ARTICLE 1  
TERMS

All of the covenants, conditions, restrictions and easements set forth herein shall affect each and all of the Lots in the Subdivision and shall run with such Lots and shall exist and will be binding upon all parties and persons claiming under them for a period of twenty-five (25) years from the date of filing hereof, after which time the same shall automatically extend as provided in Section 4.1 below. No changes in the covenants and restrictions herein set forth shall be valid unless the same shall be placed of record in the Office of the Register of Deeds for Douglas County, Nebraska, duly executed and acknowledged by the requisite number of owners.

ARTICLE II  
MUTUALITY OF BENEFIT AND OBLIGATION

All of the covenants and restriction are made for the mutual and reciprocal benefit of each and every Lot are intended to create mutual and equitable servitude upon each of said Lots in favor of each and all other Lots and to operate as covenants running with the land for the benefit of each and all other Lots and their respective owners. THE COVENANTS AND RESTRICTIONS SHALL BE BINDING UPON THE OWNER OR OWNERS OF EACH LOT, UPON ANY PURCHASER OR PURCHASERS OF ANY SUCH LOT AND UPON THE HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS OR ASSIGNS OF ANY SUCH OWNER OR OWNERS OR PURCHASER OR PURCHASERS EXACTLY AS IF EACH SUCH PARTY HAD PERSONALLY SIGNED AND ACCEPTED THIS DECLARATION.

ARTICLE III  
CONVENANTS AND RESTRICTIONS

3.01 Improvements Each Lot shall be used exclusively for single-family residential purposes. No building or structure, other than one single-family dwelling, patio walls, sidewalks, curbs, fences, swimming pool (in-ground, only), barn Metal pole building (to be placed behind the back of the dwelling) and garage, may be erected, placed or maintained on any Lot. and specifically approved in writing by Declarant. All dwellings and other structures placed upon the Lot shall be of new materials and construction and shall be of good quality workmanship and materials.

3.02 Minimum size. Each dwelling on each respective Lot shall contain a total living area of not less than:

- Ranch: 1800 Square feet.
- 2 Story: 1600 square feet first floor 800square feet 2<sup>nd</sup> floor
- Multi or tri level: 2400 square feet above ground level

Living area is defined as a fully enclosed floor area devoted to living purposes. The measurement of living are of any dwelling shall be exclusive of roofed or unroofed porches, basements, terraces, garages, and other outbuildings and shall be computed from faces of exterior walls. Roofing materials will be limited to Tamko Heritage Shingles,

Tamko Lamarite Slater Composite Shingles or such other comparable shingles as Declarant specifically approves in writing.

3.03 Driveways. All driveways and parking pads will be constructed of Concrete cement or asphalt. No dirt, shale, gravel or any form of unpaved drive or parking area will be permitted after one year of completion of dwelling, except gravel driveways between the dwelling and detached accessory buildings to the rear, provided no such gravel driveway shall extend street ward any closer than the rear of said dwelling. All breaks in the curb to allow vehicle access will be professionally refinished to neat clean molded appearance.

3.04 Sanitation. No building or structure shall be occupied for dwelling Purposes unless and until said building or structure shall be connected to a water supply and septic tank or sewage disposal system that meets all Douglas County Health Department requirements and Nebraska Department of Environmental Quality Title 124 requirements.

3.05 Prohibited Structures. No trailer, tent, camper vehicle, boat, motor, mail Carts, golf carts, or other equipment shall be placed or stored on any Lot unless stored within a fully enclosed garage. No mobile, modular or manufactured home or temporary house shall be placed or erected on any Lot.

3.06 Destruction of Improvements. Any dwelling or other structure on any Lot which is fully or partially destroyed or damaged by fire, storm or any other means, must be fully rebuilt, repaired or removed within one (1) year after the date of destruction or damage occurs.

3.07 Construction Periods. The work of constructing, painting, altering or remodeling any dwelling or other structure on any Lot shall be completed within one (1) year from the date off commencement of the work.

3.08 Lot Grading. All Lot grading shall result in the diversion of surface water To the street or existing drainage way adjacent to the respective Lot. No such grading shall be permitted which would materially cause an increase in the normal flow of water across an adjacent Lot, unless the owner(s) of the adjacent Lot and any other affected Lots otherwise give written consent in recordable form. Additionally, no lot will be graded or modified so as to prevent or impede the drainage of surface water from the street to the shoulder adjoining the street, and from the shoulder to natural drainage away from the street.

3.09 Parking Requirements. There shall be a completely enclosed garage with a minimum of two (2) automobile parking stalls of at least 10 x 20 feet each for each single dwelling unit constructed on any Lot. Enclosures, shelters, screens and other improvements constructed for the purpose of automobile parking and other vehicles shall be attached to and a part of the structure of the building to which they apply.

ARTICLE IV  
ENFORCEMENT, VARIANCES AND AMENDMENTS

4.1 Binding Effect: Enforcement.

The covenants and restrictions shall run with the land and shall be binding on all owners and successive owners of Lots in the Subdivision for a period of twenty-five (25) years following the date of the filing of this amendment, and such person are specifically given the right to enforce these covenants and restrictions to any proceedings at law or in equity, against any person or person violating or threatening to violate such covenants and restrictions, and recover any damages suffered by them from any violation thereof. This Declaration shall automatically renew for consecutive terms of ten (10) years at end of said twenty-five (25) year term unless the owners of at least two thirds (2/3) of the Lots vote prior to the end of the initial or extended term not to extend the same, which vote will be evidenced by a recordable termination notice signed by the requisite number of Lot owners, which termination notice will not be effective unless it is signed and recorded within the six months preceding the expiration of the then current term. The invalidation of any one of these covenants and restrictions herein shall in no way affect any other provisions hereof which will remain in full force and effect. Time is of the essence wherever a time limit is stated within these covenants and restrictions.

4.2 Variances. The owner of any Lot may obtain a variance from Section 3.01, 3.02, 3.06 or 3.07 to allow the owner to deviate from the requirements there of by obtaining the written approval of the request variance from the then owners of at least two-thirds (2/3) of the Lots, subject to satisfying the following conditions:

- (a) The variance will be in recordable form and specifically describe the particulars in which the owner will be allowed to deviate from the covenants listed above.
- (b) The variance cannot result in the violation of any Applicable law, regulation, ordinance or building code; and
- (c) If the original Declarant still owns an interest in any of the Lots, the variance will not be effective or valid unless it is also signed by the Declarant or, if the original Declarant no long owns and interest in any Lot and a homeowner's association has been formed pursuant to Section 4.5, below, then the variance

3.10 Pets and Other Animals. The maximum number of hooved animals will be limited to 5 per lot. No swine, sheep, goats, or fowl of any kind will be allowed. No commercial raising or dealing in dogs, cats, horses or any other animal will be permitted on or from any lot. No animals may be kept or permitted on any lot, which create objectionable noise or constitute a nuisance to owners of lots near by.

3.11 Appearance of Residential Dwelling. Each Lot and the parkway area existing between the Lot Line and adjacent curb or street at all times shall be kept in a clean, sightly and wholesome condition and weeds or grass shall be kept neatly cut or mowed. No boxes, containers, cans, burn barrels, implements, machinery lumber or other building materials shall be permitted to remain exposed upon any Lot so they are visible from any neighboring Lot or street except as necessary during the period of construction. No Lot shall be used in whole or in part as a dumping ground for rubbish or for the storage of any property or thing that will cause the Lot to appear in an unclean, disorderly or untidy condition or that will be otherwise obnoxious. No trash, litter, motor vehicles, machinery, salvage parts, junk, bottles, grass or weed clipping, debris or other unsightly materials shall be permitted to remain exposed upon any Lot or street and shall be kept only in sanitary containers. The exterior of all structures shall be continuously maintained and never allowed to fall into disrepair. No obnoxious or offensive activity shall be carried on upon any Lot nor shall anything be done, placed or stored thereon which may be or become annoyance or nuisance to the Subdivision or any part thereof, or occasion any noise or odor which will or might disturb the peace, quite, comfort or serenity of occupants of nearby Lots.

3.12 Fences and Boundary Plantings. No wire or woven fence is permitted in front of the dwelling. Wire and woven fence at the rear of the lot behind the house can be permitted but to be approved by the Declarant. No fence may be constructed or erected on any Lot of a height greater than 6 feet. Materials must be new in harmony with the primary structure. All Lots shall be kept in a well-landscaped condition so as to produce the best aesthetic effect. No boundary planting shall be allowed outside rear Lot lines. Each owner shall cut and maintain all of his trees, shrubs and hedges so that no part thereof shall extend across any Lot boundary line without the permission of the owner of the Lot across which the planting extends.

3.13 Vehicles. Boats and boat trailers whether operable or inoperable, may be kept within the Subdivision only if housed with a garage. In operable motor vehicles shall not be kept within the Subdivision except within a completely enclosed garage. Trucks with a tonnage in excess of one (1) ton shall not be permitted to park on the roads, streets, or driveways overnight. No vehicles of any kind may be parked on the street overnight other than for temporary parking.

3.14 Signs. No signs for advertising purposes shall be displayed to the public view on any Lot excepting only signs of customary dimensions (3 feet x 4 feet maximum) advertising the Lot for sale. Declarant retains an easement for the construction and maintenance of signs at the entrance to the Subdivision.

3.15 Antennas and Satellite Dishes. All television antennas and other similar antennas shall be located inside the attic or under roof. Satellite dish antennas larger than three (3) feet in diameter are not permitted within the Subdivision unless on the ground in the rear yard area and only if completely screened from ground view of any adjacent street or Lot with fence or plant materials consistent with the neighborhood. No antenna towers are allowed.

3.16 Easements. Easement of way for streets as shown on the plat filed herewith are donated and dedicated to Douglas County or any successor political subdivision. Additionally the person, firms or corporations (a "Benefited Party") engaged in publicly supplying electric power, gas, telephone, water, sewer and cable television shall have the right to use and occupy said street easements of way together with a utility easement comprised of a strip of land ten (10)feet wide adjoining the side and rear boundary lines of all of the Lots for the subsurface installation, maintenance, repair and replacement of such utility services, sewer and drainage (the "Utility Easement"), subject to the following:

- (a) Work by a Benefited Party within the Utility Easement will be completed diligently and expeditiously once started, in a good and workmanlike manner;
- (b) The Benefited Party will restore the surface area to its prior condition as soon as possible after completing any excavation with in the Utility Easement;
- (c) By availing itself of any rights under this easement, the Benefited Party agrees to indemnify and hold harmless the Lots and anyone owning an interest therein from any liability, loss, damage injury or claim arising as a result of any negligent or wrongful act by the Benefited Party, its employees, agents, contractors or subcontractors.
- (d) The owners of the Lots shall have the right to make such use of their respective Lot within the Utility Easement as does not reasonably interfere with the installation, use, maintenance or replacement of such utilities, which use my include installation of fencing, gardens or shrubs.

Any alteration or lowering of the surface grade in the vicinity of such utilities must meet with all applicable city and state codes in relation to the utility.

3.17 Building Material. No building material of any kind or character shall be placed or stored upon any Lot until owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines.

(d) will not be effective or valid unless it is also approved and signed by the association.

4.3 Amendments. Except for variances approval pursuant to Section 4.2, above, this Declaration can only amended as follows: (a) by written approval of the then owners of at least three fourths (3/4) of all the Lots, or (b) by Declarant, or any successor person, firm or entity designated in writing by Declarant, in any manner or respect determined by Declarant in its sole and absolute discretion within five (5) years after the date of this amendment. Any such approval must be in recordable form and will not be effective unless and until recorded with the Douglas County Register of Deeds.

4.4 Voting Rights. For purposes of any consents or approvals required of Lot owners under this Declaration, each Lot will have only one (1) vote. If a Lot has multiple owners, then a majority of the owners will determine How the vote of that Lot is cast; if there is a tie vote for a particular Lot, Or if the owner(s) of a Lot fail to vote, that Lot's vote will be treated as an Abstention and cannot be counted toward satisfying the required majority for the matter being voted on by the other Lot owners.

4.5 Homeowners Association. Declarant or a majority of the owners of at least two thirds (2/3) of the Lots may at any time form a homeowners association for the Subdivision to undertake such activities as a homeowner's association would normally engage in, which would include the ability to levy general assessments against the owners of Lots to cover expenses for operating the association and for items which are of general benefit to residents of the Subdivision, all as would be more particularly set for in the articles of association and by-laws adopted to establish the association. Once a homeowners association has been legally formed, then membership in the association by the owners of any Lot will be automatic and mandatory. Only one such homeowners association will be allowed to be created, although a new association may be created once an existing association is dissolved or disbanded. At any time after a homeowners association is duly formed for the Subdivision, Declarant will have the right to transfer all of it right under the Declaration by recording an assignment to that effect with the Register of Deeds of Douglas County; provided further that such transfer will be deemed to automatically have occurred at such time as Declarant no longer owns any interest in any of the Lots.

4.6 Precedence. The foregoing amended Declaration takes precedence over and supersedes any prior declaration by Declarant.

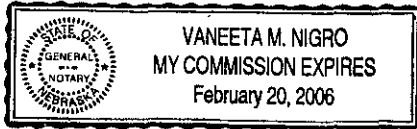


IN WITNESS WHEREOF, Declarant has caused these present to be executed  
this 2 day of Feb 2005.

By Don Gardiner  
Don Gardiner, Declarant

State of Nebraska )  
                                  ) ss.  
County of Douglas )

The foregoing instrument was acknowledged before me this 20 day of Aug 2005,  
by Don Gardiner, to me known to be the identical person named in and who executed the  
foregoing instrument and acknowledged the same to be his voluntary act and deed.



Vaneeta M Nigro  
Notary Public