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DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TURTLE CREEK  
LOTS 360 THROUGH 427, INCLUSIVE

GEORGE J. BOLEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBR.

THIS DECLARATION, made on the date hereinafter set forth by XH LAND CATTLE COMPANY, a Nebraska corporation, hereinafter referred to as the "Declarant",

WITNESSETH:

WHEREAS, the Declarant is the Owner of the following described real property:

Lots 360 through 427, inclusive, in Turtle Creek a Sub-division, as surveyed, platted and recorded in Douglas County, Nebraska, and

Such Lots are herein referred to collectively as the "Lots" and individually as each "Lot";

WHEREAS, the Declarant will convey said Lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth;

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described Lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

PART A. RESTRICTIONS AND COVENANTS

A-1 No residential dwelling shall be created, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling, not to exceed two stories in height, nor containing finished living areas, exclusive of porches, breezeways, carports, and garages of less than the following: A one-story residential dwelling constructed on any of said residential Lots shall have a ground floor area of not less than 1,350 square feet. A one and one-half story residential dwelling or two story residential dwelling shall have a ground floor area of not less than 1,000 square feet and the total square footage of the dwelling to be not less than 1,600 square feet. Residential dwellings constructed on a split entry ranch plan or split level plan shall have not less than 1,250 square feet on the main living floor level. That said areas are exclusive of porches or attached garages. Each residential dwelling shall have a garage for not less than two automobiles.

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- A-2 No Lot shall be used except for single family residential purposes.
- A-3 No noxious or offensive activity shall be carried on upon Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood.
- A-4 No structure of a temporary character, trailer, basement, tent, shack, barn, storage shed or other outbuilding shall be erected upon, or used, on any Lot at any time as a residence, either temporarily or permanently.
- A-5 No structure or dwelling shall be moved from outside of Turtle Creek to any Lot.
- A-6 No unused building material, junk, garbage or rubbish shall be left exposed or deposited on any Lot except during actual building operations, and then only in as neat and inconspicuous manner as possible. No repair of automobiles, boats, motorcycles, trucks, campers, trailers, all terrain vehicles or similar vehicles will be permitted outside of garages or on any Lot, street or road at any time.
- A-7 No automobile, boat, camping trailer, auto-drawn or mounted trailer of any kind, mobile home, camper truck, motorcycle, all terrain vehicles, grading or excavating equipment or other heavy machinery or equipment, or similar vehicle undergoing repair, van or aircraft shall be stored, parked, or abandoned outside the garage or in any manner left exposed on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. However, this Section A-7 shall not apply to trucks, trailers or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.
- A-8 Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.
- A-9 No incinerator or trash burner shall be permitted on any Lot unless the same is incorporated into the dwelling and not exposed to view from the outside of the dwelling. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision, 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 except when in actual use. No garage door shall be permitted to remain open except when entry to and exist from the garage are required. No clothes line shall be permitted outside of any dwelling at any time except one umbrella-type clothes line per Lot. Any exterior air-conditioning condenser unit shall be placed in the rear or side yard so as not to be visible from public view.
- A-10 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 that a dog house constructed for one (1) dog shall be permitted; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its

assigns, if required by this Declaration. Dog houses shall only be allowed at the rear of the building, concealed from public view; no dog runs or kennels of any sort shall be allowed.

A-11 No exterior television or radio antenna or satellite receiving station or "disc" of any sort shall be permitted on any Lot (other than in an enclosed structure hidden from public view).

A-12 No sign, billboard, unsightly objects, nuisances or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any Lot except that one real estate "For Sale" or "For Rent" sign per Lot, not more than six (6) square feet, shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent. Further, no business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs, billboards or the construction and maintenance buildings, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots.

A-13 The exposed front foundation wall, as well as any foundation wall facing a street, of all main residential structures must be constructed of or faced with brick or other approved material. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete or other approved brick or stone. Fireplace chimneys shall be covered with brick, wood, or other material approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt or other approved material shingles.

A-14 A dwelling on which construction has begun must be completed within one (1) year from date of commencement of excavation or construction of the dwelling. No excavation dirt shall be spread across any Lot in such a manner as to materially change the contour of any Lot.

A-15 Public sidewalks shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and along the street side of each built upon corner Lot. The sidewalks shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Lot prior to time of completion of the main structure and before occupancy or use thereof; provided, however, this provision shall be varied to the extent required to comply with any subsequent requirements of the City of Omaha.

A-16 No building, outbuilding, fence, wall, driveway, patio, patio enclosure, rock garden, swimming pool, dog house, tree house, flag pole, fence antenna, satellite receiving stations or "disc", solar heating or cooling device, toolshed, windmill or other external improvement above or below the surface of the ground (hereinafter referred to as an "Improvement") shall be erected, placed, altered, or permitted to remain on any building plot, nor shall any grading, excavation or tree removal be commenced, until the construction plans and specifications, a site grading plan and a plot plan showing the location of the structure or improvement and a landscaping plan have been approved in writing by Declarant, or any person, firm, corporation, partnership or entity designated in writing by the Declarant, as follows:

A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, 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. Declarant shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall constitute when developed a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C. Written Notice of any refusal to approve 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 refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

D. 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 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.

A-17 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.

A-18 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.

A-19 No fence shall be permitted to extend beyond the middle line of a main residential structure unless written approval is first obtained from Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. No fences or walls shall exceed a height of six (6) feet. All produce or vegetable gardens shall be maintained only in rear yards. All Lots shall be fully sodded at the time of completion of the Improvements.

A-20 Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

PART B EASEMENTS AND LICENSES

B-1 A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, Northwestern Bell Telephone Company, and any company which has been granted a franchise to provide a cable television system within the Lots, and the Metropolitan Utilities Company, and Sanitary and Improvement District No. 295 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

B-2 A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the

easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

B-3 In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Northwestern Bell Telephone Company files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then Northwestern Bell Telephone Company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by Northwestern Bell Telephone Company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) Northwestern Bell Telephone Company sends each owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

#### PART C. GENERAL PROVISIONS

C-1 For the purposes of these restrictions, two-story height as hereinbefore mentioned in Part A-1 shall, when the basement wall is exposed, be measured from the basement ceiling on the exposed side(s) to the eaves of the structure on the same side(s).

C-2 The Declarant or its assigns or any owner of a lot named herein shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for 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.

C-3 The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm, corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall 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 ninety percent (90%) of the Lots covered by this Declaration.

C-4 Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

