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DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS  
FOR BLACKSTONE TOWNHOMES  
LOTS 1 THROUGH 18

RECEIVED

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GEORGE J. BUDNIEWICZ  
REGISTERED DEEDS  
SOUTHWEST CORNER

THIS DECLARATION, made on the date hereinafter set forth by  
BLACKSTONE TOWNHOMES JOINT VENTURE, a Nebraska Joint Venture,  
hereinafter referred to as "Declarant":

WITNESSETH:

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

Lots 1 through 18, inclusive, Blackstone Townhomes, an Addition  
to the City of Omaha, as surveyed, platted and recorded in Douglas  
County, Nebraska, and

WHEREAS, the Declarant desires to create on the herein above  
described real property a residential community with private  
parking, improvements, open spaces, and other common facilities  
for the benefit of said community;

WHEREAS, Declarant desires to provide for the preservation  
of the values and amenities in said community and for the maintenance  
of said private parking, improvements, open spaces, and other common  
facilities; and to this end, desires to subject the above described  
Property to the covenants, restrictions, easements, charges and liens  
hereinafter set forth, each and all of which is and are for the  
benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it desirable, for the efficient  
preservation of the values and amenities in said community, to create  
an agency to which said community, to create an agency to which should  
be delegated and assigned the powers of maintaining and administering  
and enforcing the covenants and restrictions and collecting and disbursing  
the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated the Blackstone Townhomes  
Association, Inc., under the laws of the State of Nebraska, as a  
non-profit corporation, the purpose of which shall be to exercise  
the functions aforesaid;

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WHEREAS, Declarant will convey the above-described lots, subject to certain protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that 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 the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each Owner thereof.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Association" shall mean and refer to the Blackstone Townhomes Association, Inc., a Nebraska non-profit corporation, its successors, and assigns.

Section 2. "Common Expenses" shall mean and refer to expenses of the Association necessary to maintain the Common Properties; and whether on common properties or one or more Lots, expenses incurred in the maintenance and repair of the exterior of any Living Unit as hereinafter provided, the maintenance and repair of the driveway and parking areas, snow removal, care and maintenance of landscaping, lawn and yards, if any, open spaces and other common facilities, the care and maintenance of the "private improvements" as set forth and defined in a certain Subdivision Agreement between the City of Omaha, the Declarant and the Association, and the providing of insurance coverages upon the Common Properties and the Living Units.

Section 3. "Common Properties" shall mean and refer to those areas of land listed on Exhibit "A", attached hereto and by this reference incorporated herein, and any additional areas of land declared to be Common Properties in any Supplemental Declaration filed by Declarant pursuant to Article II of the Declaration. All Common Properties shall be devoted to the exclusive common use and enjoyment of the Owners of The Properties.

Section 4. "Declarant" shall mean and refer to Blackstone Townhomes Joint Venture, its successors and assigns.

Section 5. "Living Unit" shall mean and refer to a townhouse dwelling situated upon a Lot, designated and intended for the use and occupancy as a residence by a single family.

Section 6. "Lot" shall mean and refer to any parcel of land shown upon any recorded map or plat of The Properties, upon which a Living Unit shall be built, or is proposed to be built. The Lots subject to this Declaration are shown and described on Exhibit "B" attached hereto and by this reference incorporated herein. Any Supplemental Declaration hereafter filed shall similarly reflect those Lots thereunder subject to this Declaration, or otherwise legally describe the real property to become subject to the Declaration.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Mortgage" means a mortgage or deed of trust and "mortgagee" means the holder of a mortgage or the beneficiary of a deed of trust.

Section 9. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to all or any part, parcel or portion of a Lot which is a part of The Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "The Properties" shall mean and refer to all such properties as are subject to this Declaration. The Properties shall initially consist of Lots 1 through 18 inclusive, Blackstone Townhomes, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

#### ARTICLE II

##### PROPERTY SUBJECT TO DECLARATION

The Properties shall be held, transferred, sold, conveyed and occupied subject hereto.

#### ARTICLE III

##### PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. Owner's Easements of Enjoyment. Every Owner and/or Member of the Association shall have a right and easement of enjoyment in and to the Common Properties which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to suspend the voting rights

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and rights to the use of the Common Properties by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(b) the right of the Association to dedicate or transfer all or any part of the Common Properties, subject to any then existing ingress and egress requirements in connection therewith, to any public agency, non-profit corporation (to use for purposes similar to those for which the Association was formed), authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners and/or Members of the Association and by persons holding mortgages on any portion of the subject property. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Owner not less than 30 days or more than 60 days in advance. Declarant or its assigns shall have the right at any time to use so much of the Common Properties as it may deem necessary or advisable for the purpose of aiding in the construction and development of the unimproved Lots, provided such use does not unreasonably interfere with the Owners use and reasonable access to the Common Properties, or with their right of ingress or egress to their Living Units.

(c) the right of the Association to borrow money for the purpose of improving the Common Properties and facilities and in aid thereof to mortgage said Common Properties and facilities, which mortgage shall be subordinate to the rights of the owners hereunder.

(d) the right of the Association, through its Board of Directors, to pass and amend, from time to time, rules and regulations governing the use of certain parts or all of the Common Properties for the welfare and common good of all Owners within The Properties.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment of the Common Properties and facilities, together with any other right, license, privilege or easement conferred upon such Owner by the Declaration, to the members of his family, his tenants, guests or contract purchasers all of whom shall reside in a Living Unit.

Section 3. Title to the Common Properties. The Declarant will

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convey fee simple title to the Common Properties described in Exhibit "A", attached hereto and incorporated herein by reference, to the Association, free and clear of all encumbrances and liens, except easements, restrictions, covenants, and conditions then of record. The Common Properties shall be conveyed by Declarant to the Association no later than the sale by Developer of all Living Units, or December 31, 1983, whichever is first to occur.

Section 4. Owner's Right and Obligation to Maintain and Repair.

Except for those portions of the Properties which the Association is required to maintain and repair, each Owner shall, at his sole cost and expense, maintain and repair his Living Unit, keeping the same in good condition. In the event an Owner fails to maintain his Living Unit in a manner which the Board deems necessary to preserve the appearance and value of the Properties, the Board may notify Owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event that the Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner and, following notice and hearing, create a lien against his Lot for the amount thereof.

Section 5. Entry for Repairs and Maintenance. The Board or its agents may enter any Living Unit or Lot when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in case of any emergency, twenty-four (24) hour advance notice shall be given to the Owner or occupant.

Section 6. Limitation on Management Agreements. If a majority of the first mortgagees shall so require in writing, the Board of Directors of the Association shall retain and pay for the services of a professional property manager for the Properties. No agreement for the management of the Properties shall be effective for a term beyond one year, renewable by agreement of the parties for successive one-year periods, and such management agreement shall be terminable for cause by the Board of Directors of the Association upon 30 days written notice to the

ARTICLE IV

MEMBERSHIP

Declarant, and every Owner as defined in Article I, Section 8 under this Declaration shall be a member of the Association. No Owner shall have more memberships than the number of Lots owned by such Owner. Memberships shall be appurtenant to and may not be separated from ownership of the Lots. Ownership of a lot or lots shall be the sole qualification for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

ARTICLE V

VOTING RIGHTS

Members (Owners) shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, except those exempt under Sections 7 and 9 of this Article, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenant and agree to pay to the Association: (1) interim assessments or charges (2) annual assessments or charges; and (3) special assessments for capital improvements; all of such assessments to be established and collected as herein provided. The interim, annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. All subsequent purchasers shall take title to the Lot subject to said lien and shall be bound to inquire to the Association as to the amount of any unpaid assessments. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare, and recreation of the residents of The Properties and, in particular, interim and annual assessments shall be used, whether on the Common Properties or on one or more Lots, for: the maintenance and repair of the Common Properties; exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, which shall include siding, roofing material, frames of doors and windows, floor coverings of deck, fence material on deck, porch light fixtures, outside doors, trees, shrubs, grass, walks and other exterior improvement, specifically excluding, however, (i) windows and other glass surfaces and (ii) repairs and maintenance necessitated by the willful or negligent act of the owner of the Lot or improvements needing such maintenance or repair of such owner's family, guests or invitees; the maintenance and repair of the driveway and parking areas; snow removal; care and maintenance of landscaping, lawn and yards, if any, open spaces and other common facilities; the care and maintenance of the "private improvements", as set forth and defined in a certain Subdivision Agreement between the City of Omaha, the Declarant, and the Association; providing insurance coverages upon the Common Properties and Living Units, as herein set forth, and any other expenses deemed to be common by the Association. Annual Assessments, and annual assessment reserves, are not intended to be used for maintenance, repair or replacement of the living Units or appurtenant structures or improvements except as expressly provided in this Section 2.

Section 3. Annual Assessments. The first annual assessment shall be levied against each Lot and the Owner thereof on January 1, 1984, or any preceding January 1 if Developer has previously relinquished control of the Association. The annual assessment shall be divided as evenly into twelve (12) monthly payments as possible with the first payment to include the remainder after division. Annual assessments shall become due and payable upon the 1st of January and the 1st of each month thereafter during the calendar year. Annual assessments for each calendar year thereafter shall be levied and shall become due and payable in the same manner. Annual assessments to be levied

against each Lot and the Owner thereof shall be one-sixteenth (1/16) of the total annual budget for the calendar year. The annual assessment shall be divided evenly into 12 monthly installments due and payable upon the first of the month. The amount shall be determined as described in Section 6 following.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, or within a driveway, ingress and egress easements, or utility easement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes of Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Uniform Rate of Assessment and Collection. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 6. Annual Assessments: Due Dates. The Board of Directors shall adopt a budget for each calendar year which shall include the estimate of funds required to defray the expenses of the Association in the coming calendar (fiscal) year and provide funds for reserves as herein set forth.

The budget shall be adopted no later than February of the current calendar year. Budgets may be amended during a current year when necessary, but copies of the amended budget and proposed increase or decrease in assessments shall be sent to each Owner prior to the effective date of such increase or decrease.

The Board of Directors shall fix the amount of annual assessment to be assessed against each Lot. Written notice of the annual assessment shall be sent to each Owner subject thereto at least twenty (20) days prior to the due date of the assessment, or the first installment thereof, including the dues dates and amounts thereof. The failure of the Board to so notify each Owner in advance shall not, however, relieve any Owner of the duty and obligation to pay such assessment



or any installment thereof. The Board shall have the authority, in its discretion to require that all Owners pay the annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be and become a lien as of the date of the annual assessments.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of the Assessments: The Personal Obligation of the Owner; The Lien; Remedies of the Association.

If any assessment chargeable to a Lot or any installment thereof is not paid on the date when due, then such assessment, together with interest thereon and cost of collection thereof as hereinafter provided, shall thereupon become a lien on such Lot superior to all other liens and encumbrances, except liens for taxes, special assessments and first mortgages.

Any delinquent assessment or installment thereof not paid within thirty (30) days after the due day shall bear interest from the due date at the highest rate of interest at which individuals may contract in Nebraska. In the event the unpaid assessment is an installment of an annual assessment, the Association may, after such thirty (30) day period and during the continuance of the default, declare all remaining installments of said annual assessment immediately due and payable at its option. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee, together with the costs of the action. No Owner may waive or otherwise escape the liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

The mortgagee of the subject property shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and rights of foreclosure to the mortgagee.

Section 8. Transfer of Lot by Sale or Foreclosure. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

The purchaser of a Lot, including any mortgagee, who obtains title to the same as a result of foreclosure of a first mortgage, his successors and assigns, shall not thereby become personally liable for the delinquent share of the Common Expenses or Assessments, but such delinquent share of Common Expenses or assessments shall be reallocated among all of the Lots in the Properties, including the Lot foreclosed upon.

Section 9. Exempt Property. Other than Lots exempt under the provisions of Section 7 of this Article, all Lots shall be subject to a uniform rate, except for Lots owned by or conveyed to, and accepted by, the Association. Such Lots shall be exempt from assessment from and after the date of filing of any such conveyance with the Register of Deeds of Douglas County, Nebraska, and until the Lot is thereafter conveyed to a party or an entity not qualifying for exemption under this Section. Such Lots shall also be exempt from special assessments.

#### ARTICLE VII

##### COMMON SCHEME RESTRICTIONS

The following restrictions are imposed as a common scheme upon all Lots and Common Properties for the benefit of each others Lots and Common Properties, and may be enforced by any Owner of a Lot, or of the Common Properties, or the Association.

- (a) No Lot shall be used except for residential purposes.
- (b) No noxious or offensive activity shall be carried on upon the Properties, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood.

st, (c) No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on The Properties either temporarily or permanently.

(d) No unused building material, junk or rubbish shall be left exposed on The Properties except during actual building operations. No repair of automobiles or any other vehicle will be permitted outside of garages on The Properties at any time.

(e) No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading or excavating equipment or other heavy machinery or equipment, vehicle undergoing repair, or aircraft, shall be stored outside the garage or in any manner left exposed on The Properties at any time.

(f) Gardens are not permitted.

(g) No incinerator or trash burner shall be permitted on The Properties. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any Living Unit, except after 8:00 p.m. the evening before the scheduled garbage pickup, provided said garbage or trash can or container is back inside the Living Unit by 6:00 p.m. the day of pickup. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothes line shall be permitted outside of any Living Unit at any time.

(h) No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on The Properties, except that dogs, cats, or other household pets maintained within the Living Unit may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided further that the total number of dogs and cats kept within the Living Unit or on the Lot shall not exceed two. It is intended specifically to prohibit any animals from being sheltered or tethered outside the Living Unit.

(i) No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on The Properties.

(j) No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on The Properties; provided, however, that real estate for-sale signs of a size no greater than 4.5 square feet shall be permitted temporarily in the yards of Living Units