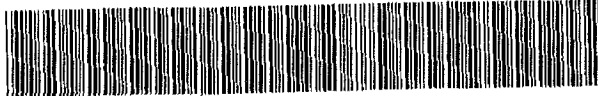


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[FOR RECORDING PURPOSES]

**FIRST AMENDMENT TO DECLARATION OF EASEMENTS**

This First Amendment to Declaration of Easements ("First Amendment") is made this 1<sup>st</sup> day of JULY, 2005, by TERRA PACIFIC OMAHA, LLC, a Nebraska limited liability company, and GUNDERSON GALLAGHER, LLC, a Nebraska limited liability company (collectively, "Declarants").

**Recitals**

- A. Declarants are the owners of the real estate described on Exhibit "A" attached hereto (each platted lot, a "Development Tract", and collectively the "Project").
- B. By Declaration of Easements dated March 8, 2005 and recorded in the office of the Register of Deeds of Douglas County, Nebraska on March 10, 2005 in the Miscellaneous Records as Instrument Number 2005027021 (the "Declaration"), Terra Pacific Omaha, LLC, then the sole owner of the Project, established certain easements which benefitted and burdened the Project.
- C. Because of the anticipated conversion of Lot 1, Replat 1, in Belle Meade, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska ("Lot 1") to a condominium regime pursuant to the Nebraska Condominium Act, Declarants desire to amend the Declaration.

**Amendments to Declaration**

The Declaration is hereby amended in the following respects:

- 1. Paragraph 1(b) of the Declaration is hereby amended and, as amended, provides as follows:
  - (b) *Pedestrian.* In addition to the Roadways, non-exclusive easements for the purpose of pedestrian traffic between each Development Tract and (i) each

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other Development Tract, (ii) the public streets now or hereafter abutting or located on any portion of the Project, and (iii) the walkways now or hereafter abutting or located on any portion of the Project; limited, however, to those portions of each Development Tract which are improved by the Owner thereof from time to time for pedestrian walks and made available by such Owner for general use, as such portion may be reduced, increased or relocated from time to time by each such Owner.

2. Paragraph 1(d) of the Declaration is hereby amended and, as amended, provides as follows:

- (d) *Parking.* In addition to the Roadways, nonexclusive easements for the purpose of vehicular parking in the parking area immediately adjacent to and west of the clubhouse/pool facility located on Lot 1.

3. Paragraph 4 of the Declaration is hereby amended and, as amended, provides as follow:

4. Maintenance of Easement Areas. Except to the extent that such areas are operated and maintained by public authorities or utilities, the Owner of each Development Tract will operate and maintain all of the areas of the Development Tract which are subject to the pedestrian, vehicular and parking easements created by subparagraphs 1(a), (b), (c) and (d) of this Declaration in sound structural and operating condition at the sole expense of the Owner of such Development Tract. The Owner of each Development Tract will operate and maintain all Utility Facilities and Common Facilities located within the boundaries of such Development Tract in sound structural and operating condition (except to the extent that such operation and maintenance is performed by public authorities or utilities) and expenses incurred in connection with the maintenance, repair or replacement thereof will be borne by the Owners of the Development Tracts in the ratio which the aggregate square feet of improved dwelling space (exclusive of garages) located on each Development Tract bears to the aggregate square feet of improved dwelling space located on all Development Tracts; provided: (a) each Owner will pay all costs associated with the operation and maintenance of Utility Facilities and the consumption of utility services which relate solely to the improvements located on a single Development Tract and no other Owner will have any liability with respect thereto; and (b) any Owner of a respective Development Tract (together with the consent of the holder of any mortgage or deed of trust constituting a lien on such Development Tract) may, by recording in the public records a relinquishment of the Common Facilities easement created by subparagraph 1(e), and providing a copy thereof to all other Owners, be released from its share of those costs of operating and maintaining any one or more of the Common Facilities located on other Development Tracts which accrue from and after the date of such recording.

4. Paragraph 8 of the Declaration is hereby amended and, as amended, provides as follows:

8. Amendment and Termination. Except as otherwise provided in this paragraph 8, this Declaration shall continue in full force and effect until terminated, modified or amended with the express written consent of all of the Owners of the real property included within the Project and no amendment, modification or termination of this Declaration will affect the rights of the holder of any mortgage or deed of trust constituting a lien on any portion of the Project or a Development Tract, if such mortgage is recorded prior to the recording of the Condominium Declaration in respect of Lot 1, unless such mortgagee consents to the same; provided, nothing contained herein shall prevent or prohibit the relinquishment by an Owner (with the consent of its mortgagee) of its rights with respect to one or more of the Common Facilities easements as provided in paragraph 4. This Declaration and the rights and easements created hereunder shall automatically terminate as to, and will no longer benefit or burden, any Development Tract effective on and as of the date a Certificate of Occupancy is issued in respect of any improvement on such Development Tract and such Development Tract is not then within the boundaries of a Condominium. "Condominium", as used herein, shall have the meaning ascribed to such term in Neb. Rev. Stat. § 76-827(7). No tenant, licensee or other person having only a possessory interest in the improvements constructed on a Development Tract will be required to join in the execution of or consent to any action of the Owners taken pursuant to this Declaration.

5. Paragraph 10(d) of the Declaration is hereby amended and, as amended, provides as follows:

- (d) Termination. In the event any Owner fails to pay such Owner's proportionate share of the expenses of maintaining Utility Facilities and Common Facilities ("Shared Expenses") in accordance with paragraph 8 hereof ("Defaulting Owner"), and such failure continues for thirty (30) days after written notice thereof to the Defaulting Owner, the rights of the Defaulting Owner and such Defaulting Owner's Permittees under this Declaration in respect of such Utility Facilities and Common Facilities shall be automatically suspended. If the Defaulting Owner's failure to pay such Defaulting Owner's proportionate share of Shared Expenses continues for sixty (60) days after a second written notice thereof to such Defaulting Owner, any Owner aggrieved thereby may file an affidavit with the Douglas County, Nebraska Register of Deeds stating that such Defaulting Owner has failed to timely pay such Defaulting Owner's proportionate share of Shared Expenses and that the written notices required under this paragraph were provided to such Defaulting Owner and, effective upon the filing of such affidavit, all rights of the Defaulting Owner and such Defaulting Owner's Permittees under this Declaration in respect of such Utility Facilities and Common

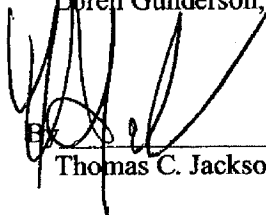
Facilities shall permanently terminate. Except as provided hereinabove, no other breach of this Declaration will entitle any Owner to cancel, rescind or otherwise terminate this Declaration. The foregoing limitation will not affect, in any manner, any other right or remedy which any Owner might have by reason of any breach of this Declaration.

5. Except as specifically addressed hereinabove, the Declaration is otherwise unaffected by this First Amendment and is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, this First Amendment has been executed effective as of the date first above written.

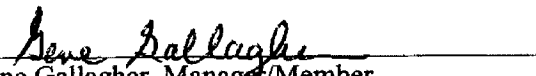
TERRA PACIFIC OMAHA, LLC, a  
Nebraska limited liability company

By   
Loren Gunderson, Manager

  
Thomas C. Jackson, Manager

GUNDERSON GALLAGHER, LLC, a Nebraska  
limited liability company

By   
Loren Gunderson, Manager/Member

By   
Gene Gallagher, Manager/Member



STATE OF ND )  
 ) ss.  
COUNTY OF CASS )

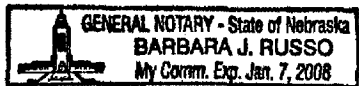
The foregoing instrument as acknowledged before me this 7<sup>th</sup> day of July, 2005, by LOREN GUNDERSON, a Manager of TERRA PACIFIC OMAHA, LLC, a Nebraska limited liability company, on behalf of the company.

Kevin Amey  
Notary Public 7.21.06

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

**NOTARIAL SEAL  
REGISTER OF DEEDS**

The foregoing instrument as acknowledged before me this 11<sup>th</sup> day of July, 2005, by THOMAS C. JACKSON, a Manager of TERRA PACIFIC OMAHA, LLC, a Nebraska limited liability company, on behalf of the company.



Barbara J Russo  
Notary Public

STATE OF ND )  
 ) ss.  
COUNTY OF CASS )

The foregoing instrument as acknowledged before me this 7<sup>th</sup> day of July, 2005, by LOREN GUNDERSON, a Manager/Member of GUNDERSON GALLAGHER, LLC, a Nebraska limited liability company, on behalf of the company.

Kevin Amey  
Notary Public 7.21.06

**NOTARIAL SEAL  
REGISTER OF DEEDS**



**SUBORDINATION**

The undersigned hereby subordinates its mortgage or deed of trust liens on the Project to the foregoing First Amendment to Declaration of Easements.

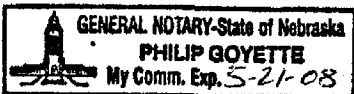
TierOne Bank

By *Lois Hinrichs*  
Title: Vice President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 2nd day of August, 2005, by Lois Hinrichs, a Vice President of TierOne Bank, a Nebraska banking corporation, on behalf of the corporation.

[SEAL]



*Philip Goyette*  
Notary Public

**EXHIBIT "A"**

Lot 1 and Lot 2, Replat 1, in Belle Meade, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.