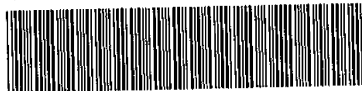




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DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

This Declaration of Covenants, Easements and Restrictions is made effective as of the 7th day of March, 2000, by and between Steakout Limited, L.L.C., a Michigan limited liability company, Joseph Polonski and Bluma Polonski, Husband and Wife, MB Investments, L.L.C., a Nebraska limited liability company, Richard H. Hudson and Marti Ann Hudson, Husband and Wife, Grandmothers, Inc., a Nebraska corporation, Rigel Corp., a Nebraska corporation, FFCA Acquisition Corporation, a Delaware corporation, First National Bank of Omaha, a National Banking Association, Tiffany Building, L.L.C., a Nebraska limited liability company, Old Orchard West Building, L.L.C., a Nebraska limited liability company, Gordman Properties Company, a Nebraska general partnership, and Old Orchard West Landowners Association, a Nebraska nonprofit corporation (hereinafter collectively referred to as the "Declarants").

WITNESSETH:

WHEREAS, Steakout Limited, L.L.C. is the owner of the following legally described real property, to-wit:

Lot 1, Old Orchard West Replat II, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28402

WHEREAS, Joseph Polonski and Bluma Polonski, Husband and Wife, are the owners of the following legally described real property, to-wit:

Lot 2, Old Orchard West Replat II, an Addition to the City of Omaha
in Douglas County, Nebraska. 60-28402

WHEREAS, MB Investments, L.L.C. is the owner of the following legally described real property, to-wit:

Lot 2, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28399

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WHEREAS Richard H. Hudson and Marti Ann Hudson, Husband and Wife, are the owners of the following legally described real property, to-wit:

Lot 7, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28399

WHEREAS, Tiffany Building, L.L.C. is the owner of the following legally described real property, to-wit:

Lot 8, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28399

WHEREAS, Old Orchard West Office Building, L.L.C. is the owner of the following legally described real property, to-wit:

Lot 4, Old Orchard West, an Addition to the City of Omaha, Douglas
County, Nebraska. 60-28398

WHEREAS, Grandmothers, Inc. is the owner of the following legally described real property, to-wit:

Lot 9, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28399

WHEREAS, Rigel Corporation is the owner of the following legally described real property, to-wit:

Lot 10, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28397

WHEREAS, FFCA Acquisition Corporation is the owner of the following legally described real property, to-wit:

Lot 11, Old Orchard West Replat, an Addition to the City of Omaha,
Douglas County, Nebraska. 60-28399

WHEREAS, First National Bank of Omaha, a national banking association, is the owner of the following legally described real property, to-wit:

A part of Lot 3, Old Orchard West, an Addition to the City of Omaha,
Douglas County, Nebraska, more particularly described as follows: 60-28398

Beginning at the Southeast corner of said Lot 3, Old Orchard West; thence North $87^{\circ} 52' 22''$ West (Assumed Bearing) along the North right of way line of West Center Road, a distance of 251.92 feet; thence North $00^{\circ} 10' 40''$ West, a distance of 127.33 feet; thence North $04^{\circ} 13' 41''$ West, a distance of 117.28 feet, thence North $89^{\circ} 49' 20''$ East, a distance of 240.00 feet; thence South $00^{\circ} 10' 40''$ East, a distance of 12.50 feet; thence North $89^{\circ} 49' 20''$ East, a distance of 20.00 feet; thence South $00^{\circ} 10' 40''$ East along the Easterly line of said Lot 3, Old Orchard West, a distance of 241.95 feet to the point of beginning.

WHEREAS, Gordman Properties Company is the owner of the following legally described real property, to-wit:

Lot 5, Old Orchard West, an Addition to the City of Omaha, Douglas County, Nebraska. 60-28398

WHEREAS, Old Orchard West Landowners Association, Inc. is the owner of the following legally described real property, to-wit: 60-28399

Lot 13, Old Orchard West Replat, an Addition to the City of Omaha, Douglas County, Nebraska, except that part more particularly described as follows: Beginning at the Southeast corner of Lot 3, Old Orchard West Replat and assuming the South line of said Lot 3 to bear South $89^{\circ} 59' 10''$ West; thence North a distance of 141.79 feet to a point on the East line of said Lot 3; thence South $89^{\circ} 56' 23''$ East a distance of 41.72 feet to a point on the West line of Lot 4, Old Orchard West Replat; thence South $0^{\circ} 00' 46''$ East a distance of 44.81 feet to the Southwest corner of said Lot 4; thence South a distance of 96.63 feet to a point on the West line of Lot 5, Old Orchard West Replat; thence South $89^{\circ} 59' 10''$ West along the East extension of the South line of said Lot 3 a distance of 41.73 feet to the point of beginning, containing 5,916 square feet (now included in Old Orchard West Replat II, TOGETHER WITH all Declarant rights Grantor has or may have with respect to said real property.

WHEREAS, by virtue of the recording of this Declaration, the above legally described real property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of this Declaration and every grantee of any interest in said real property, by acceptance of a deed or other conveyance of such interest, and every Owner of any portion of the real property, whether or not such deed or other conveyance of such interest

shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the terms hereof; and

WHEREAS, the Declarants do hereby specify, agree, designate and direct that this Declaration and all of its provisions shall be and are covenants to run with the real property herein described and shall be binding on the present owners of the real property and all its successors and assigns and all subsequent owners of the real property and improvements thereon, together with their grantees successors, heirs, executors, administrators, devisees and assigns.

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, the Declarants hereby agree that the above legally described real property is and shall be subject to the following Declaration of Covenants, Easements and Restrictions ("Declaration") as follows:

ARTICLE I - DEFINITIONS

1.1 Allocated Interests means the percentage interest in the Common Area Expense Liability allocated to each Owner, and votes in the Association allocated to each Owner.

1.2 Articles of Incorporation means the Articles of Incorporation of the Association as the same now exist or may be hereafter amended.

1.3 Association means the Old Orchard West Landowners Association, Inc., a Nebraska nonprofit corporation.

1.4 Association's Board of Directors, Board of Directors or Board means the Board of Directors of the Association, the members of which shall be elected from time to time as provided in this Declaration and pursuant to the terms of the By-Laws. The Board of Directors shall be the governing body of the Association and may sometimes herein be referred to as the Board or the Executive Board.

1.5 By-Laws means the By-Laws of the Association as referred to in this Declaration.

1.6 Common Area means Lot 13, Old Orchard West Replat, an Addition to the City of Omaha, Douglas County, Nebraska.

1.7 Common Area Expenses means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.8 Common Area Expense Liability means the liability for Common Area Expenses allocated to each Lot pursuant to the terms of this Declaration.

1.9 Declaration means this Declaration of Covenants, Easements and Restrictions, as such may be amended from time to time.

1.10 Dispose or Disposition means a voluntary transfer to a Purchaser of any legal or equitable interest in a Lot, but does not include the transfer or release of a security interest.

1.11 First Mortgage means any first priority deed of trust, mortgage, deed to secure debt, or other instrument conveying a lien upon or security title to a Lot. Mortgagee shall be the holder, beneficiary or grantee of any such First Mortgage.

1.12 Lot or Lots means all of the above legally described real property, except Lot 13, Old Orchard West Replat, which is defined in Paragraph 1.6 of this Declaration as the Common Area.

1.13 Managing Agent means the Person, company, or other legal entity who undertakes the duties, responsibilities and obligations of the management of the Association, which Managing Agent may be employed or terminated by a vote of the Board of Directors, subject to any outstanding contract as might exist.

1.14 Owner or Lot Owner means the Declarants or any other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation.

1.15 Person means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity; provided, however, that for a land trust, "Person" means the beneficiary of the trust rather than the trust of the trustee.

1.16 Plat means a drawing of the Old Orchard West subdivision, which is attached hereto as Exhibit B and incorporated herein by this reference.

1.17 Occupant means any Person who is entitled to the exclusive use and occupancy of any building or Lot, or any portion thereof, under rights contained in any deed, lease or similar agreement.

1.18 Permittees means any Lot Owner and any officer, director, employee, agent, contractor, customer, invitee, licensee, vendor, subtenant, mortgagee or concessionaire of any Lot

Owner insofar as their activities relate to the intended use of the Common Area, and all fire, rescue and other emergency vehicles.

1.19 Purchaser means any Person other than a Declarant or a Person in the business of selling Real Estate for his own account, who by a voluntary transfer acquires a legal or equitable interest in a Lot, other than as security for an obligation.

ARTICLE II - LOTS AND ALLOCATION OF INTERESTS

Lots and Allocation of Common Area Expenses. Each Lot shall have an allocated interest in the Common Area for the purpose of paying Common Area Expenses. Each Lot's percentage interest in the Common Area shall be allocated based on the total ground area square footage occupied by a Lot Owner divided by the total ground area square footage of all Lots subject to this Declaration. The extent and amount of the Allocated Interest shall be expressed by a percentage amount, the particular percentage amount, also sometimes referred to herein as "share", appertaining to each Lot being set forth in Exhibit A attached hereto and made a part hereof. The calculation of this allocation, shall be originally calculated by the Declarants and any adjustment thereafter by the Association. This fee shall be based on the operation and maintenance costs for the Common Area and the amount of the assessment will change on a yearly basis according to these costs. Allocations and reallocations of the percentage interest may be subject to minor variations attributable to rounding off. The respective percentage interest shall be computed to five significant figures so the sum of the percentage interests of all Lots equals one hundred (100%) percent.

ARTICLE III - EASEMENT AND COMMON AREA

3.1 Grant of Easement. The Association hereby grants and conveys unto each Owner and all future owners and their respective Occupants and Permittees, an easement for the perpetual non-exclusive right for vehicular and pedestrian ingress and egress over, through and upon the Common Area, for the purpose of providing access to each Lot. The foreclosure of any mortgage covering all or a portion of any Lot shall in no way affect or diminish any easement granted herein, for all such easements shall remain in full force and effect for the benefit of each Owner herein. The Easement hereby created is not a public easement, but is a permanent, private easement for the use and benefit of the Owners and their respective Occupants and Permittees. The parties hereto further expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and

agreed that this easement granted herein shall survive the termination of this Declaration and shall continue thereafter so long as any Lot remains in existence.

3.2 Membership in Association and Common Area Expense Liability. Each Owner, by execution of this Declaration or acceptance of the deed to a Lot, expressly agrees to the allocation and reallocation of the percentage interest set forth in Article II above.

3.3 Granting of Easements. The Association, acting through the Board of Directors, shall have the power to grant rights and restrictions, in the Common Area, such as the right to grant utility easements, licenses, or similar rights under, through or over the Common Area as may be reasonably necessary to or desirable for the Association or any Member thereof.

3.4 Easement for Improvements. The Association shall have and does hereby reserve an easement on and over the Common Area for the purpose of making improvements contemplated by this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith. The Lot Owners hereby grant the Association, and its agents and contractors, an easement over and across each of their respective Lots, but only in a manner, and to the extent, that it is reasonably necessary to maintain, improve, repair or replace the improvements located in the Common Area and/or any existing street lights that are located on any Lot for the purpose of illuminating the Common Area.

3.5 Utilities Easements. Except as may be otherwise provided for herein, this Declaration shall have no force or effect on existing utility easements in favor of any Lot Owner. To the extent necessary and reasonable, the Association may grant easements for the installation, repair and replacement of such utilities and other proper services for the benefit of any Lot Owner.

3.6 Effect of Easements. All easements and rights herein established shall run with the land and inure to the benefit of and be binding on the Declarants, their successors and assigns.

ARTICLE IV - RESTRICTIONS

4.1 Limitations on Use. All activity permitted within the Common Area shall be used with reason and judgment so as not to interfere with the primary purpose of the Common Area which is to provide access for the customers, invitees and employees of those businesses conducted within the Old Orchard West commercial area and for the servicing and supplying of such businesses.

4.2 Parking Restrictions. Each Owner shall use reasonable efforts to ensure that Permittees, Occupants, customers, invitees, contractors, suppliers and employees do not park or block the Common Area. No barricades, fences or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of pedestrian or vehicular traffic throughout the Common Area.

4.3 Maintenance of Common Area. The Association shall maintain, keep in good repair and upkeep, and replace, as a Common Area Expense assessed in accordance with this Declaration, the Common Area. The maintenance is to include, without limitation, the following:

- (1) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;
- (2) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition; and
- (3) Inspecting, maintaining, repairing and replacing any storm drainage system located in the Common Area.

ARTICLE V - ASSOCIATION AND ASSESSMENTS

5.1 General Information. The Association shall be required to maintain the Common Area in good condition and repair as more particularly set forth in this Declaration. The fiscal year of the Association shall be the calendar year. The Office of the Association shall be located at such location as the Board of Directors or the Managing Agent shall designate from time to time.

(a) All Lot Owners, by virtue of their ownership of a Lot, are automatically mandatory Members of the Association and shall be entitled to vote on all matters upon which Members of the Association are entitled to vote, pursuant to the Declaration and in accordance with the By-Laws. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Each Lot Owner shall be entitled to the number of votes based upon its Allocated Share of the Common Area Expenses.

(b) The initial Board of Directors of the Association and all officers of the Association shall be appointed by the Declarants and thereafter be elected as provided for in the By-laws.

5.2 Meetings.

(a) The annual meeting of the Association shall be held at the office of the Association during the month of January on the second Tuesday in each year, commencing at 4:00 p.m., or such other time or place as may be designated by the Association's Board of Directors. Each annual meeting shall be for the purpose of electing Directors and transacting any other business authorized to be transacted by the Members. If the date set for the annual meeting of the Membership is a legal holiday, the meeting will be held at the same hour on the first day following such legal holiday.

(b) Special meetings shall be held whenever called by the President or Vice-President or by a majority of the Association's Board of Directors, and must be called by such officers upon receipt of a written request from Members entitled to cast one-third (1/3) of the votes of the entire membership.

(c) Notice of all meetings, stating the time, date, place and purpose for which the meeting is called, shall be given by the President or Vice-President or Secretary, unless waived in writing. Such notice shall be in writing to each Member at the last known address shown on the records of the Association and shall be mailed at least ten (10) days but no more than sixty (60) days prior to the date of the meeting. Proof of such mailings shall be made by affidavit, duly executed by the Person giving the notice. Notice of meeting may be waived before or after any such meeting.

(d) A Quorum at any meeting shall consist of a majority of those Persons entitled to cast all votes of the Association. A Quorum is represented by persons in attendance and by proxy. If any meeting of the Members cannot be organized because a quorum has not attended, the Members present either in Person or by Proxy, may adjourn the meeting for at least ten (10) days, and adequate notice of the new date shall be given as described in paragraph (c) of this Section.

(e) Each Member shall be entitled to cast the number of votes based on its Allocated Share of the Common Area Expense Liability. If a Lot is owned by one Person, its right to vote shall be established by the record title to the Lot. If a Lot is owned by more than one Person,

or if a Lot is owned by a corporation, partnership, trust or any other organization, the vote for such Lot shall be exercised as such multiple Owners or representative thereof, between or among themselves, determine; provided, in no event shall more than the Allocated Share of the vote be cast with respect to any Lot. In the event of disagreement among such multiple Persons or representative of such corporation, partnership, limited liability company, trust or any other organization and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized, and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, if that Owner is shown in the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

(f) Votes may be cast in Person or by proxy. A proxy terminates one (1) year after its date, unless it specifies a shorter term period.

5.3 Directors. The business of the Association shall be managed by a Board of Directors of at least three (3) directors no more than eleven (11) directors, who shall serve without compensation. However, any Director may be reimbursed for his/her actual expense incurred in the performance of his/her duties as a Director.

(a) Each Director shall be a Member of the Association (or if a Member is an employee of a corporation, partnership, limited liability company or trust, a Director may be an officer, partner, member, managing member, beneficiary or trustee of such Member of the Association). If a Director shall cease to meet such qualifications during their term, he/she will thereupon cease to be a Director, and their place on the Board shall be deemed vacant.

(b) Election of Directors shall be conducted at the annual meeting. Not less than thirty (30) days prior to each annual meeting, the Board of Directors shall appoint a Nominating Committee consisting of three (3) Members. The Nominating Committee shall nominate one (1) person for each director whose term of office is expiring. Additional nominations may be made from the floor. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of votes cast. Each person entitled to vote may cast their vote for each of and as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(c) The Directors shall be elected as provided in this Declaration. The term of each Director shall be one (1) year. Thereafter, Directors shall be elected for terms staggered on a

one (1), two (2) and three (3) year basis. One (1) Director shall be elected for one (1) year, one (1) Director shall be elected for two(2) years and one (1) Director shall be elected for three (3) years. After the initial term of each such Director, all Directors shall be elected for three (3) year terms. In the event that there are more than three (3) Directors, each additional Director shall be for three (3) year terms. Each Director shall serve for the term set forth herein above and until their successor is duly elected and qualified, or until removed from office as provided herein.

(d) Any Director may be removed from the Board, with or without cause, by concurrence of a two-thirds (2/3) majority of the votes cast by the quorum present at any regular or special meeting of the Association called for that purpose.

(e) In the event of the death, resignation or removal of a Director, their successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of their predecessor.

5.4 Director's Meetings. The initial meeting of the Board of Directors shall be held within ten (10) days of its appointment at such place and time fixed by the Declarant. No further notice of the initial meeting shall be required provided that a quorum is present.

(a) Regular meetings of the Board of Directors shall be held at such time and places which are determined, from time to time, by a majority of the Association's Board of Directors. Notice of regular meeting shall be given to each Director, personally or by mail, telephone or equivalent service, at least three (3) days prior to the date of any regular meeting. Notice of meeting may be waived before or after any such meeting.

(b) Special meeting of the Board of Directors may be held at the request of the president, Vice-President or Secretary, and must be held at the written request of two-thirds (2/3) of the Directors. Notice of special meetings shall be given to each Director, personally or by mail, telephone or equivalent service, at least five (5) days prior to the date of any special meeting. Notice of meeting may be waived before or after any such meeting.

(c) A quorum at Director's meeting shall consist of fifty percent (50%) of the votes thus represented of the entire Association's Board of Directors present at the beginning of a meeting. The acts approved by a majority of those Directors present at any meeting at which a quorum is present shall constitute the acts of the Association, except where approval by a greater

number of Directors is required by the Declaration and the By-Laws. If at any meeting of the Board of Directors less than a quorum is present, the majority of those present may adjourn the meeting until a quorum is present. Upon reconvening an adjourned meeting, any business called may be transacted without the necessity of providing any further notice.

(d) The presiding officer of the Director's meeting shall be the Chairman of the Board, if such an officer has been elected, or if not, the President shall preside. In the absence of the presiding officer, the Directors present shall designate one of the number to preside.

(e) The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

5.5 Powers and Duties of the Board of Directors. All of the powers and duties of the Association existing under the Declaration, Articles and By-Laws shall be exercised by the Board of Directors, its duly appointed agents, contractors or employees, subject only to approval by the Lot Owners where specifically required. Compensation of employees of the Association shall be fixed by the Directors. A Director may be an employee of the Association and a contract for management of the Common Area may be entered into with a Director.

5.6 Officers. The executive officers of the Association shall consist of a President, who must also be a Director, a Vice-President, Treasurer, and Secretary. The election of officers shall be made by a majority vote of the Board of Directors at the first meeting of the Board following each annual meeting of the Membership, and each Officer shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or otherwise become disqualified to serve. Any officer may be removed from office at any regular or special meeting of the Association's Board of Directors by a majority vote of the quorum present at such meeting. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office may be filled by a majority vote of the quorum present of the Directors. The officer elected to such vacancy shall serve for the remainder of the term of the officer they replace. Any person may hold two or more offices, except that the President shall not be Secretary. The Association's Board

of Directors may elect additional officers, from time to time, to exercise such powers and duties as the Board of Directors shall find required to manage the business of the Association. Compensation of officers shall be fixed by the Board of Directors.

(a) The President shall be the Chief Executive Officer of the Association, shall have all powers and duties usually vested in the office of President of an Association, including, but not limited to, the power to appoint committees to assist in the conduct of the business of the Association.

(b) The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice-President shall assist the President and exercise such other powers and perform such other duties as prescribed by the Board of Directors.

(c) The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association; receive and give receipts for monies due and payable to the corporation from any source whatsoever, and deposit all monies in the name of the Association in such banks, trust companies or other depositories as shall be directed by the Board; shall sign all checks and promissory notes of the Association except in those instances where the Board has delegated the authority to sign checks to a managing agent employed by the Association; shall keep proper books of account; may, at the direction of the Board of Directors of the Association, or by a vote of a majority of the Members of the Association, cause an annual audit of the books of the Association to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Members at the regular annual meeting of the Members, and shall deliver a copy of such to the Members. The duties of the Treasurer may be performed by the managing agent.

(d) The Secretary shall keep the Minutes of all proceedings of the Association and the Board of Directors. The Secretary shall prepare and deliver all notices required by the By-Laws to be delivered to the members of the Association and the Board of Directors, as well as all other notices required by law. The Secretary shall keep all records of the Association, except those of the Treasurer and shall perform all other duties incident to the office of Secretary.

5.7 Assessments.

(a) All Owners shall be obligated to pay the estimated assessments imposed by the Board of Directors of the Association to meet the Common Area Expenses. The Common Area Expenses of the Association shall be assessed among all of the Lot Owners in accordance with the

Owner's share in the Common Area as set forth in Article II of this Declaration. Assessments for the estimated Common Area Expenses of the Association shall be due in advance of the first day of each quarter. The method of assessment described herein may not be amended without the written approval of seventy-five (75%) percent of the individual Lot Owners.

(b) On a sale or transfer of any Lot, the transferee's obligation of payment of assessments shall begin on the first day of the month in which the closing of the transfer occurs.

(c) Assessment shall be based upon the cash requirements deemed to be such aggregate sum of the Board of Directors of the Association shall from time to time determine and is to be paid by all of the Lot Owners to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Area which are the responsibility of the Association, and the real property and improvements owned thereby, which sum may include, but shall not be limited to, expenses of management, taxes and special assessments until separately assessed; snow removal and road repair, premiums for insurance, landscaping and care of grounds, wages, common water and sewer charges, electricity charges and street light maintenance and repair, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent, if any, on behalf of the Lot Owners under or by reason of the Declaration and By-Laws of the Association for the creation of a reasonable contingency, reserve, working capital and sinking funds as well as other costs and expenses relating to the Common Area.

(d) Pursuant to the provisions of the Declaration and By-Laws, the Board of Directors may levy such assessments for the purpose of defraying the cost of repair or reconstruction of the improvements in the event of their damage.

(e) The Association by its Board of Directors may levy a special assessment against any individual Lot or any Lot Owner for the reasonable expense incurred in the reconstruction or repair to the Common Area, the individual Lot or any Lot Owner for damage or destruction caused by said individual Lot Owner's misconduct, negligence or infraction of the published rules and regulations of the Association.

(f) The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or release of the Lot Owner's obligation to pay the same.

(g) Within thirty (30) days after adoption of any proposed Budget for the Association, the Board of Directors shall provide a summary of the Budget to all the Lot Owners and

shall set a date for a meeting of the Owners to consider ratification of the Budget, which date shall not be less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the Owners, or any larger vote specified in the Declaration, reject the Budget, the Budget is ratified, whether or not a quorum is present. In the event the proposed Budget is rejected, the periodic Budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

5.8 Owner's Personal Obligation for Payment of Expenses. The amount of the Common Area Expenses assessed by the Association against each Lot shall be the personal and individual debt of the Owner thereof. No Owner may exempt themselves from liability for this contribution towards the Common Area Expenses by waiver of the use or enjoyment of any of the Common Area, the real property and improvements owned by the Association or by abandonment of their Lot. The Board of Directors shall have the responsibility to take prompt action to collect any unpaid assessments which remain unpaid for more than ten (10) days from the date for payment thereof. In the event of default in the payment of the assessment, the Lot Owner shall be obligated to pay interest at the rate of ten percent (10%) per annum, on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees incurred together with such late charges as provided by the By-Laws or Rules and Regulations of the Association. Suit to recover a money judgment for unpaid Common Area Expenses shall be maintainable without foreclosing the lien nor shall such suit be construed to be a waiver of the lien.

5.9 Association Lien for Non-Payment of Common Area Expenses.

(a) All sums assessed by the Association but unpaid for the share of Common Expenses chargeable to any Lot shall constitute a lien on such Lot superior to all other liens and encumbrances, except only for tax and special assessment liens of the Lot in favor of any governmental assessing entity and all sums unpaid on any First Mortgage of record and any mortgage or deed of trust filed of record before this Declaration, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Board of Directors shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the Owner of the Lot and a description of the Lot. Such notice of lien shall be signed by one of the members of the Association's Board of Directors or by one of the officers of the Association on behalf of the Association and shall be recorded in the Office of the Register of Deeds for Douglas County, Nebraska. Such lien shall attach

and be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been fully paid.

(b) Such lien may be enforced by the foreclosure of the defaulting Owner's Lot by the Association in the manner of a deed of trust or mortgage on real property upon the recording of a notice of claim thereof. In any such proceedings, the Owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure, all additional costs, all expenses and reasonable attorney's fees incurred. The Owner of the Lot being foreclosed shall be required to pay the Association the quarterly assessment for the Lot during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Lot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey and otherwise deal with the same.

(c) Any Mortgagee holding a lien on a Lot may pay, but shall not be required to pay, any unpaid Common Area Expenses payable with respect to such Lot, and upon such payment, such encumbrancer shall have a lien on such Lot for the amount paid of the same rank as the lien of its mortgage or encumbrance without the necessity of having to record a notice of claim of such lien. The Association shall report to the Mortgagee of a Lot any unpaid assessments remaining unpaid for longer than sixty (60) days after the same is due; provided, however, that a Mortgagee shall have furnished to the Association notice of such encumbrance.

(d) The recorded lien may be released by recording a Release of Lien signed by one of the members of the Association's Board of Directors or by one of the officers of the Association on behalf of the Association and shall be recorded in the Office of the Register of Deeds of Douglas County, Nebraska.

(e) Notwithstanding any of the foregoing provisions, any Mortgagee who obtains a title to a Lot pursuant to the remedies set forth in its mortgage or deed of trust shall take title to the Lot free and clear of all Common Area Expense assessments levied thereon prior to such transfer of title and free and clear of all liens created as a result of such assessments.

5.10 Ascertain Liability of Unpaid Common Expenses. The Lot Owners and their mortgagees, prospective mortgagees or prospective grantees, upon ten (10) days written notice to the Board of Directors and upon payment of a reasonable fee, shall be furnished a statement of their account. The statement of account shall include the amount of any unpaid Common Area Expenses, the amount of the current assessments, the dates that assessments are due, the amount for any advanced payments made, prepaid items such as insurance policy premiums and reserves therefor and any deficiencies in reserve accounts which statement shall be conclusive upon the Association in favor

of all persons who rely therein in good faith. Unless such request shall be complied with within ten (10) days after receipt of such written request, all unpaid Common Area Expenses which become due prior to the date of such request will be subordinate to the rights of the person requesting such statement.

5.11 Priorities of Association and Maintenance Association Lien for Common Expenses.

The Owner of a Lot may create a junior deed of trust or mortgage (junior) to the lien, deed of trust or other encumbrances of a First Mortgage, liens or encumbrances of the Lot; provided, however, that any such junior mortgage, deed of trust, liens or encumbrances, unless it is filed of record prior to this Declaration, will always be subordinate to the prior and paramount lien of the Association for Common Area Expenses and all of the terms, conditions, covenants, restrictions, uses, limitation and obligations under this Declaration.

ARTICLE VI - INSURANCE - DAMAGE, DESTRUCTION AND RECONSTRUCTION

6.1 Scope of Coverage. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board of Directors, but not less than one million (\$1,000,000.00) per injury or injuries, including death, arising out of a single occurrence; one million (\$1,000,000.00) property damage, or in the alternative, a liability policy affording coverage for bodily injury and property damage with a combined single limit in an amount not less than one million (\$1,000,000.00). The policy or policies shall cover the Association, the Association's Board of Directors and the officers of the Association, all agents and employees of the Association arising out of or in connection with the use, ownership or maintenance of the Common Area or such other area which the Association has the responsibility to maintain.

(b) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association and/or the Owners from risks associated with the Common Area.

(c) The insurance policies purchased by the Association, to the extent reasonably available, contain the following provision:

(i) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust.

(ii) Statement of the name of the insured as Old Orchard West Landowners Association, Inc.

(d) It shall be the duty of the Board of Directors at least annually to conduct an insurance review to determine if the policy enforced is adequate to meet the need of the Association and to satisfy the requirement of this Declaration. Such responsibility may be performed and shall be deemed reasonably performed, by the Board's Managing Agent requesting the Association's insurance agent to verify that the insurance policies in existence meet the needs of the Association as set forth herein and satisfies the requirements of this Declaration.

6.2 Payment of Premiums. Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Area Expenses and shall be paid for by the Association.

ARTICLE VII - MISCELLANEOUS PROVISIONS

7.1 Effective Covenants. Each grantee of the Declarants, its successors and assigns, by the acceptance of a deed of conveyance, accept the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Declaration or to which this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest of estate in said property, and shall inure to the benefit of such Lot Owners on like manner as though the provisions, terms and restrictions of this Declaration were received and stipulated at length in each and every deed of conveyance.

7.2 Waiver. No covenant, restriction, condition or provision of this Declaration shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

7.3 Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration herein contained, as the case may be, shall not render the remainder of the Declaration invalid, nor any other part therein contained.

ARTICLE VIII - AMENDMENT AND TERMINATION

8.1 Amendment, Modification. Except as to any modification or amendment with respect to percentage interest, the Declaration may be amended by the vote or agreement of the Lot Owners to which seventy-five percent (75%) of the votes of the Association are allocated or amended, which

Amendment shall become effective upon being duly recorded in the Office of the Register of Deeds of Douglas County, Nebraska.

8.2 Termination. The Declaration herein shall not be terminated except with the written acknowledge consent of seventy-five percent (75%) of the Lot Owners, and such termination shall be effective when duly recorded in the office of the Register of Deeds in the county in which said property is situated.

8.3 Duration. Unless otherwise canceled or terminated, this Declaration and all of the covenants, easements, restrictions, rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof or such earlier date as may be required in order that this Declaration shall be invalidated or be subject to invalidation by reason of a limitation imposed by law or the duration thereof; provided, however, that the easements specifically referred to herein as being perpetual or as continuing beyond the term of this Declaration or otherwise shall continue in full force and effect as provided therein.

8.4 Revocation of Prior Covenants, Easements and Restrictions of Record. The Lots and the Common Area may be or are subject to the terms and conditions of certain covenants, restrictions, easements, conditions the following instruments filed of record in the Office of the Douglas County Register of Deeds:

(1) Declaration of Covenants, Conditions and Restrictions dated June 30, 1982 and recorded on August 10, 1982, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 675, Page 395.

(2) Declaration of Easement for Ingress and Egress and Other Covenants dated June 30, 1982 and recorded on June 30, 1982, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 673, Page 320.

(3) Declaration of Easement for Ingress and Egress and Other Covenants dated October 18, 1988 and recorded on October 21, 1988, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 865, Page 688.

Declaration of Easements...

(4) Covenants, Conditions, Agreements, Restrictions and Termination of Ground Lease dated December 29, 1989 and recorded on December 29, 1989, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 909, Page 243.

(5) Declaration of Easement for Ingress and Egress and Other Covenants dated October 20, 1988, and recorded on October 20, 1988, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 865, Page 577.

(6) Declaration of Easements for Ingress and Egress dated April 3, 1995, and recorded on April 5, 1995, in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 1143, Page 732.

(7) Agreement dated August 23, 1982 and recorded on August 25, 1982 in the office of the Douglas County Register of Deeds, Miscellaneous Records, Book 676, Page 225.

(8) Declaration Private Road Maintenance dated October 10, 1990 and recorded on October 16, 1990 in the office of the Douglas Count Register of Deeds, Miscellaneous Records, Book 941, Page 431.

Insofar as the foregoing documents relate, in any manner, to the ownership, grant, use, and maintenance of the Common Area, they shall hereby be released, terminated and discharged against all of the Lots described therein from all of the terms, conditions and provisions relating thereto. The intent of the Declarants herein is for this Declaration to supersede and replace the foregoing described instruments, but only to the extent the provisions in the foregoing described instruments relate to the ownership, grant, use and maintenance of the Common Area as defined herein.

8.5 Counterparts. This Declaration may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed on the day and year set forth below.

MB INVESTMENTS, L.L.C., a Nebraska limited liability company,

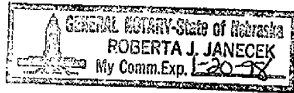
By: Michael R. B...
Title: Managing Partner

Declaration of Easements ...

STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came Michael R. Berlin, Managing Partner of MB Investments LLC, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

Witness my hand and Notarial Seal this 14 day of January, 1998.



Roberta J. Janacek
Notary Public

JOSEPH POLONSKI

Joseph Polonski

BLUMA POLONSKI

Bluma Polonski

STATE OF FLORIDA)
)ss.
 COUNTY OF MIAMI-DADE)

Before me, a notary public, in and for said county and state, personally came Joseph Polonski and Bluma Polonski, Husband and Wife, known to me to be the identical persons who executed the above instrument and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and Notarial Seal this 23 day of Dec., 1999.

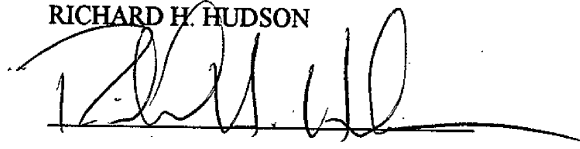
Jeffrey Perlow
 Notary Public



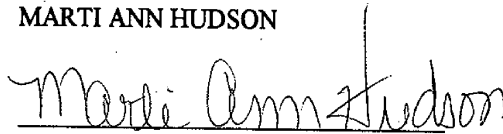
Jeffrey Perlow
 MY COMMISSION # C0628168 EXPIRES
 April 1, 2001
 BONDED THRU TROY FAIR INSURANCE, INC.

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RICHARD H. HUDSON



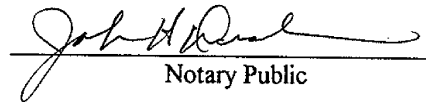
MARTI ANN HUDSON



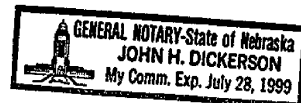
STATE OF Nebraska)
)ss.
 COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came Richard H. Hudson and Marti Ann Hudson, Husband and Wife, known to me to be the identical persons who executed the above instrument and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and Notarial Seal this 1st day of May, 1998.



Notary Public



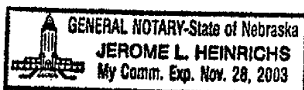
TIFFANY BUILDING, L.L.C., a Nebraska limited liability company,

By: Ronald Waggoner
Title: President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Before me, a notary public, in and for said county and state, personally came RONALD WAGGENER, PRESIDENT of TIFFANY BUILDING, LLC, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said limited liability company.

Witness my hand and Notarial Seal this 14 day of JANUARY, 2000.



Jerome L. Heinrichs
Notary Public

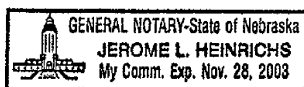
OLD ORCHARD WEST BUILDING, L.L.C., a Nebraska limited liability company,

By: Ronald Waggoner
Title: President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Before me, a notary public, in and for said county and state, personally came RONALD WAGGENER, PRESIDENT of OLD ORCHARD WEST BUILDING, LLC, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said limited liability company.

Witness my hand and Notarial Seal this 14 day of JANUARY, 2000.



Jerome L. Heinrichs
Notary Public

Declaration of Easements...

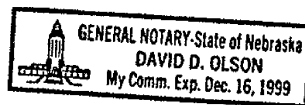
FIRSTBANK, a national banking association, f/k/a FIRSTIER
BANK, N.A., Mortgagee

By: G. Kelleher
Title: Sr. Vice President

STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came Ed
Kelleher, Sr. Vice President of First Bank, known to
me to be the identical person who executed the above instrument and acknowledged the execution
thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 6th day of February, 1998.



David Olson
Notary Public

Declaration of Easements...

GRANDMOTHERS, INC., a Nebraska corporation,

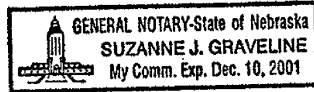
By:


Title:

STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came Dean Rasmussen, President of Grandmother's, Inc. known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 27th day of April, 1998.




Notary Public

Declaration of Assent...

RIGEL CORPORATION, a Nebraska corporation,

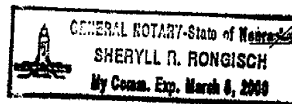
By: Pat L. KellyTitle: TreasurerSTATE OF Nebraska)

)ss.

COUNTY OF Sarpy)

Before me, a notary public, in and for said county and state, personally came Pat L. Kelly, Treas. of Rigel Corp, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 14th day of April, 1992.


Sheryll R. Rongisch
 Notary Public

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FFCA ACQUISITION CORPORATION, a Delaware corporation,

By: [Signature]
Title: SENIOR VICE PRESIDENT

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

Before me, a notary public, in and for said county and state, personally came HAROLD W. VINSON, SE. VICE PRESIDENT of FRANCHISE FINANCE CORPORATION, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 7th day of MARCH, 2000.

[Signature]
Notary Public



STEAKOUT LIMITED, L.L.C., a Michigan limited
liability company,

By: William D. Bishop
Title: MEMBER

STATE OF California)
)ss.
COUNTY OF Sonoma)

Before me, a notary public, in and for said county and state, personally came William
J. Bishop, member of Steakout Limited, known to
me to be the identical person who executed the above instrument and acknowledged the execution
thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 15th day of May, 19 98.



Janice E. McHale
Notary Public

Declaration of Easements...

STEAKOUT LIMITED, L.L.C., a Michigan limited liability company,

By:

Title:

Daniel J. Trierweiler
Member

STATE OF MICHIGAN)
)ss.
 COUNTY OF KENT)

Before me, a notary public, in and for said county and state, personally came Daniel J. Trierweiler Member of Steakout Limited LLC, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 7th day of May, 1998.

Sherrill D. Helms
 Notary Public

SHERRILL D. HELMS
 Notary Public, Kent County, MI
 My Commission Expires: June 14, 2001

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Declaration of Easements...

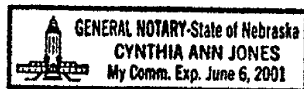
FIRST NATIONAL BANK OF OMAHA, a National Banking
Association,

By: [Signature]
Title: President, First National Buildings, Inc. Agent

STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came John E. Lehning, President of First National Buildings, Inc., known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said National Banking Association.

Witness my hand and Notarial Seal this 16th day of April, 19 98.



Cynthia Ann Jones
Notary Public

Declaration of Easements...

GORDMAN PROPERTIES COMPANY, a Nebraska general partnership,

By: [Signature]
 Title: PARTNER

STATE OF Nebr.)
) ss.
 COUNTY OF Douglas)

Before me, a notary public, in and for said county and state, personally came James P. Gorman, Partner of Gordman Properties Co., known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed and the voluntary act and deed of said general partnership.

Witness my hand and Notarial Seal this 17 day of Apr., 1998.



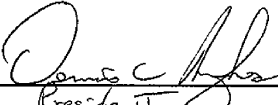
[Signature]
 Notary Public

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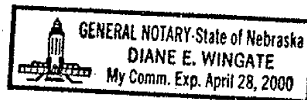
OLD ORCHARD WEST LANDOWNERS ASSOCIATION,
INC., a Nebraska nonprofit corporation,

By: 
Title: (President)

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

Before me, a notary public, in and for said county and state, personally came DENNIS
HUGHES, PRESIDENT of OLD ORCHARD WEST LANDOWNERS ASSOC. known to
me to be the identical person who executed the above instrument and acknowledged the execution
thereof to be his/her voluntary act and deed and the voluntary act and deed of said non-profit
corporation.

Witness my hand and Notarial Seal this 6th day of January, 2000.




Notary Public

MURPHY & SIVOC, ATTORNEYS
1140 WEST CENTER ROAD
OMAHA, NEBRASKA 68104-4183