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**LOT 3
DECLARATION**

FIFTY JOINT VENTURE, a Nebraska General Partnership (the "Declarant"), is the record owner of Lots 1 to 5, inclusive, Spring Valley*, an addition to the City of Omaha, Douglas County, Nebraska filed April 11, 1989 in Book 1847, Page 128, Deed Records, Douglas County, Nebraska, together with rights of ingress and egress as contained in the Declaration recorded June 14, 1991 in Book 967, Page 23, Miscellaneous Records, Douglas County, Nebraska (the "Property"). From time to time, one or more of such lots may be referred to by its platted lot number. In consideration of the purchase by Boston Chicken, Inc., a Delaware corporation, of Lot 3, Spring Valley*, an addition to the City of Omaha, Douglas County, Nebraska, ("Lot 3") Declarant does hereby establish the following restrictive covenants benefitting the Property and affecting Lot 3. On or about May 15, 1991, the Declarant caused to be recorded at Book 967, Page 23 of the Miscellaneous Records of Douglas County, Nebraska, a Declaration (the "Original Declaration") certain provisions, easements, covenants and restrictions which pertain to and affect the Property. It is the intent of the Declarant that this Declaration shall be in addition to, and not in conflict with, the provisions of the Original Declaration. However, to the extent that any of the provisions hereof conflict with those contained in the Original Declaration, the provisions hereof shall control to the extent of the conflict.

The Declarant hereby establishes certain covenants and restrictions and grants certain easements for vehicular ingress, egress, passage and traffic, all as more specifically described in this Declaration.

Section 1. *Definitions.* The terms in this Section 1 shall have the following meanings:

"Owner" shall mean any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental agency or other business entity now or hereafter holding of record an ownership interest in fee.

"Permittees" shall mean (i) the Owner of Lot 3 and its respective successors, assigns, heirs and personal representatives, (ii) such Owner's agents, customers, invitees, licensees, employees, servants and contractors, (iii) such Owner's tenants and subtenants and their respective customers, invitees, employees, servants, licensees, contractors and agents and (iv) such Owner's land contract purchasers, mortgagees and beneficiaries under deeds of trust.

Section 2. *Easement for Access, Ingress and Egress.* The Declarant hereby grants to the Permittees a nonexclusive perpetual easement for the purpose of vehicular ingress, egress, passage, traffic and access to and from Lot 3 and Lot 4 and 50th Street, over and upon that portion of Lot 4 Spring Valley*, an addition to the City of Omaha, Douglas County, Nebraska

* Plaza

("Lot 4"), which is legally described, depicted and crosshatched on Exhibit A attached hereto (the "Easement Area").

2.1. *Maintenance of Easement Area.* Except to the extent that the Easement Area is operated and maintained by public authorities or utilities and except as otherwise specifically provided in this Declaration, the Owner of Lot 4 will operate and maintain the Easement Area in good operating condition at the sole expense of the Owner of Lot 4. Such maintenance shall include, without limitation, keeping the easement area reasonably free and clear of foreign objects, papers, debris, obstructions, standing water, snow and ice. If the Owner of Lot 4 fails to so maintain the Easement Area, the Owner of Lot 3 may give written notice to the Owner of Lot 4 of its failure to comply with the provisions of this Section 2.1. The Owner of Lot 4 shall have 30 days after receipt of such notice to complete such maintenance; if the Owner of Lot 4 fails to complete the maintenance within such period or if such maintenance cannot be completed within such period and the Owner of Lot 4 has taken measures toward and is diligently pursuing such measures then such later period, the Owner of Lot 3 may perform all necessary and reasonable maintenance at the sole expense of the Owner of Lot 4.

Section 3. *Use of Lot 3.* Except as otherwise specifically provided in this Declaration, the single building permitted under Section 4.2 of this Declaration shall be used only for commercial purposes of the type normally found in a retail shopping center, including, without limitation, service shops, restaurants and retail stores. Notwithstanding the foregoing, no space in or portion of Lot 3 shall be used for any of the following purposes: (a) bingo or other game room, pool hall, teen club, theater or gambling or live entertainment enterprise of any kind; (b) warehouse operation or manufacturing or assembling operation; (c) storage (except incidental to the primary commercial use); (d) central laundry facility; (e) facility in which fire sales, bankruptcy sales (unless pursuant to Court Order) or auction sales are conducted; (f) facility for the (i) sale, leasing, display or repair of any automobiles, trucks, trailers or recreational vehicles, or (ii) the sale, storage or dispensation of gasoline or petroleum products of any kind; (g) bowling alley; (h) skating rink; (i) mortuary; (j) establishment selling or exhibiting pornographic materials; (k) establishment selling, leasing or licensing recorded materials; (l) flea market; (m) health spa or physical therapy facility; (n) massage parlor; (o) tanning parlor; (p) bar, pub or tavern; (q) ballroom, dance hall or discotheque; (r) facility for instruction, or offices, although instruction and offices incidental to primary commercial use shall be permitted; (s) package sale of intoxicating liquors, including wine and beer; provided, however, nothing in this subsection (s) shall preclude the sale or dispensation of wine, beer and/or liquor in connection with the operation of a deli, restaurant or cafe; (t) discount department store or other discount store; (u) grocery supermarket or convenience food store; (v) drug store or pharmacy; (w) an establishment dispensing prescription drugs; (x) financial institution which for purposes of this Declaration shall mean a bank, savings and loan association, credit union or industrial savings and loan whose primary business is dealing in cash, credit deposits, withdrawals, loans, financial planning or related money matters; (y) general merchandise store or department store; (z) sale of any food items or products except that the operation of a restaurant selling prepared foods for on- or off-premises consumption is expressly permitted; (aa) operation or placement

of any inside or outside teller machines, terminals or ATMs or (bb) medical clinic whose principal business is the performance of abortions; provided, however, nothing herein shall be construed to preclude the performance of abortions as an incidental part of the business of such medical clinic.

Section 4. *Building and Site Improvements.* Except as otherwise specifically provided in this Declaration, or as otherwise expressly permitted by the Owner of Lot 1, or its designee, Lot 3 shall be developed under the following standards.

4.1. *Design and Construction.* The exterior elevations of any building constructed on Lot 3 shall be architecturally and aesthetically compatible with the buildings constructed on Lot 1 as determined by the Owner of Lot 1 or its designee in its sole discretion. The design and construction of any building or replacement or expansion thereof constructed on Lot 3 shall be of high quality. No building constructed within Lot 3 shall have a metal exterior.

4.2. *Permitted Structures.* No more than one building shall be constructed on Lot 3; such building shall not exceed 17 feet in height, as measured from finished grade. No detached facilities, buildings or structures (except approved signage and trash enclosure) of any kind shall be constructed on Lot 3.

4.3. *Leasable Area.* Any building constructed on Lot 3 shall not exceed 5,000 square feet (excluding trash area) in gross leasable area.

4.4. *Rooftop Structures and Satellite.* Any rooftop equipment, building components or satellite, shall be screened from public view from all directions in a manner satisfactory to the Owner of Lot 1 or its designee in its sole discretion. No rooftop sign shall be erected on any building constructed within Lot 3.

4.5. *Signage.* No pylon signs shall be erected on Lot 3. Only one freestanding monument identification sign may be erected on Lot 3 and may advertise only the name and logo of the business conducted thereon; such sign and any replacements shall not exceed eight feet from ground level and no more than 10 feet in width. Notwithstanding the foregoing, there may be erected entrance/exit and directional signs to facilitate the free flow of traffic, which signage shall be of a monument type, not to exceed 3'3" in height. Only one sign affixed to the exterior of any building within Lot 3 may be installed or maintained. In no event shall the aggregate area of all exterior building and yard signs (as presently computed by the City of Omaha) exceed the sign budget for Lot 3 which equals 250 square feet.

4.6. *Plans.* No building, sign or other improvements shall be constructed, replaced, remodeled, expanded or altered on Lot 3 until the plans for same (including site layout, elevations, exterior building materials, colors, landscaping, signage and parking layout) have been approved in writing by the Owner of Lot 1 or its designee.

4.7. *Landscaping.* Landscaping shall not materially obstruct in the sole reasonable judgment of the Owner of Lot 1 or its designee (either through original planting or through untrimmed growth) the view of the buildings constructed on Lot 1. All trees shall be of an ornamental, low-growing type.

4.8. *Maintenance.* Until such time as Lot 3 is developed and improved by its Owner, such Owner shall keep the same planted with grass, mowed and in a clean and sightly condition.

The portion of 50th Street, if any, which adjoins Lot 3 which has not been improved by the appropriate governmental body as a street or highway shall be seeded, fertilized and mowed by the Owner of Lot 3 and maintained in the same condition as the grass areas within Lot 3.

4.9. *Parking.* The Owner of Lot 3 shall continuously provide and maintain a parking ratio equal to one of the following: (i) 10 spaces for every 1,000 square feet of building space utilized for any restaurant use or (ii) six spaces per 1,000 square feet of building space utilized for any other use.

4.10. *Garbage.* All areas of Lot 3 which house refuse dumpsters or garbage containers shall be completely surrounded with decorative fencing, approved by the Owner of Lot 1 or its designee and designed to preclude public view.

4.11. *Subdivision.* Lot 3 may not be subdivided, in any manner, into smaller lots.

No inside or outside teller machines, terminals or ATMs shall be placed on or maintained within Lot 3.

4.12. *Entrances.* There shall be no entrances, exits or drives to and from Lot 3 on either its south or east property lines. One combined entrance/exit shall be permitted on the north property line near the northeast corner of Lot 3. One combined entrance/exit shall be permitted on the west property line of Lot 3 near the northwest corner of Lot 3.

Section 5. *Parking Restrictions.* The Owner of Lot 3 and its Permittees are not permitted to park on Lots 1, 2, 4 and 5 and shall use every reasonable effort to ensure that the provisions of this Section 5 are not violated.

The parking areas of Lot 3 shall not be used for any purpose other than to provide for parking for the customers, licensees, contractors and employees of the business conducted within Lot 3 or its designee for the servicing and supplying of such business.

Section 6. *Duration; Amendment; Termination.* Unless otherwise modified, terminated or extended as permitted in this Section 6 or in this Declaration, the easements, rights, obligations, covenants and restrictions contained in this Declaration shall continue in perpetuity.

Except as otherwise specifically provided in this Declaration, this Declaration and any provision herein contained may be terminated, extended, modified or amended only with the express written consent of the Owner of Lot 1 and Lot 3. No tenant, subtenant, licensee or other person having only a possessory interest in Lot 1 and Lot 3 is required to join in the execution of or consent to any action of the Owners of such Lots 1 and 3 taken pursuant to this Declaration.

Section 7. *Dominant and Servient Estates.* Except as otherwise specifically provided in this Agreement, each and all of the easements and rights granted or created here are appurtenances to the applicable portions of the Property and none of the easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions. For the purposes of the easements and rights, the property benefited will constitute the dominant estate, and the particular area of the Property that is burdened by such easements and rights will constitute the servient estate.

Section 8. *Covenants Run With Land.* Each and all of the covenants, restrictions, and provisions contained in this Declaration (whether affirmative or negative in nature) (a) are made for the direct, mutual, and reciprocal benefit of each parcel of land constituting the Property; (b) will create mutual equitable servitudes upon each parcel of land constituting the Property in favor of the land benefited; (c) will bind every person having any fee, leasehold, or other interest in any portion of the Property at any time or from time to time to the extent that such portion is affected or bound by the covenant, restriction, or provision in question, or that the covenant, restriction, or provision is to be performed on such portion; and (d) will inure to the benefit of the parties and their respective successors and assigns as to their respective parcels of land.

Section 9. *Breach and Remedies.*

(a) *Injunctive Relief.* In the event of any violation or threatened violation of any of the terms, restrictions, or covenants provided herein, any person entitled to enforce this Declaration will have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

(b) *Excuse for Nonperformance.* If performance of any act or obligation of any party is prevented or delayed by act of God, war, labor, disputes, or other cause or causes beyond the reasonable control of such party, the time for the performance of the act or obligation will be extended for the period that such act or performance is delayed or prevented by any such cause.

(c) *Breach Will Not Permit Termination.* It is expressly agreed that no breach or violation hereof will terminate this Declaration, but this limitation will not affect, in any manner, any other rights or remedies for any breach hereof.

(d) *Remedies Cumulative.* The specified remedies to which any person entitled to enforce this Declaration may resort under the terms hereof are cumulative and are not intended to be exclusive of any other remedies or means of redress available at law or in equity. Failure to insist in any one or more cases upon the strict performance of any of the covenants hereof or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such covenant or remedy.

Section 10. *Binding Effect.* This Declaration shall be binding upon and inure to the benefit of the Owners of Lot 1 and Lot 3 and their respective successors and assigns and shall run with the land.

Dated: November 8, 1993.

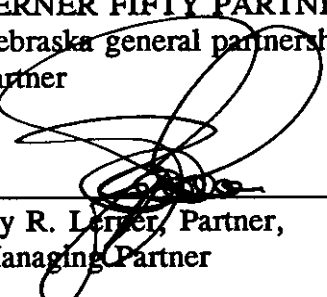
FIFTY JOINT VENTURE, a Nebraska
general partnership

By VENTURE-50, INC., a Nebraska
corporation, Partner

By 

Jack W. Baker, President

By LERNER FIFTY PARTNERSHIP, a
Nebraska general partnership,
Partner

By 

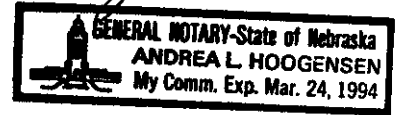
Jay R. Lerner, Partner,
Managing Partner

ACKNOWLEDGMENTS

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 8th day of November, 1993, by Jack W. Baker, President of Venture-50, Inc. a Nebraska corporation, on behalf of the Corporation, general partner of Fifty Joint Venture, a Nebraska general partnership, on behalf of the Partnership.

Andrea L. Hoogensen
Notary Public



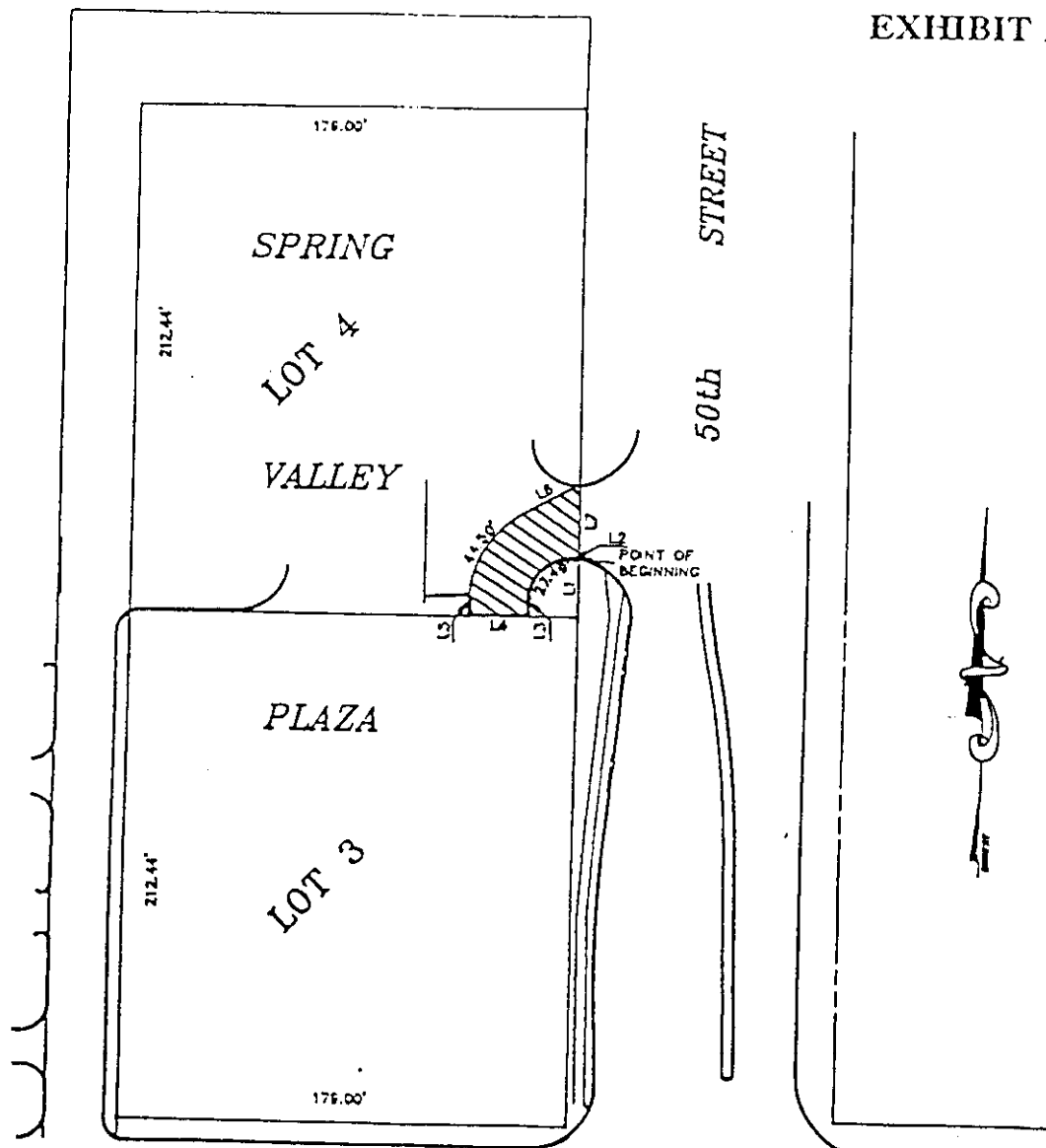
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 5th day of November, 1993, by Jay R. Lerner, Managing Partner of Lerner Fifty Partnership, a Nebraska general partnership, on behalf of the Partnership, general partner of Fifty Joint Venture, a Nebraska general partnership, on behalf of the Fifty Joint Venture.

Barbara E. Peterson
Notary Public



NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS



LINE	DIRECTION	DISTANCE
L1	N 3°32'48" E	24.89'
L2	N 86°27'12" W	1.51'
L3	S 3°32'48" W	7.39'
L4	N 86°27'12" W	24.00'
L5	N 3°32'48" E	7.39'
L6	N 64°59'04" E	24.31'
L7	S 3°32'48" W	30.57'

'G' STREET

LEGAL DESCRIPTION:

A parcel of land situate in Lot 4, Spring Valley Plaza an addition to the City of Omaha, Douglas County, Nebraska, said parcel described as follows: Commencing at the southeast corner of said Lot 4; thence along the easterly line of said Lot 4 (westerly right-of-way line of 50th Street), North 3 degrees 32 minutes 48 seconds East, 24.89 feet to the POINT OF BEGINNING, said point being on the southerly curb line of an existing drive cut; thence along said drive cut and driveway the following five (5) courses:
 1), North 86 degrees 27 minutes 12 seconds West, 1.51 feet to the beginning of a curve, concave southeasterly, having a radius of 17.5 feet;
 2), southwesterly along said curve, through a central angle of 90 degrees 00 minutes 00 seconds, 27.49 feet;
 3), South 3 degrees 32 minutes 48 seconds West, 7.39 feet to a point on the line common to Lots 3 and 4, said Spring Valley Plaza;
 4), along said common line, North 86 degrees 27 minutes 12 seconds West, 24.00 feet;
 5), North 3 degrees 32 minutes 48 seconds East, 7.39 feet to the beginning of a curve, concave southeasterly, having a radius of 41.5 feet; thence northeasterly, along said curve, through a central angle of 61 degrees 26 minutes 16 seconds, 44.50 feet; thence North 64 degrees 59 minutes 04 seconds East, 24.31 feet to a point on said easterly line of Lot 4; thence along said easterly line, South 3 degrees 32 minutes 48 seconds West, 30.57 feet to the POINT OF BEGINNING.

Said parcel contains an area of 1,375 square feet, more or less.

CONSENT AND SUBORDINATION

THIS CONSENT AND SUBORDINATION (this "Agreement") is executed and delivered by Lutheran Brotherhood, a Minnesota corporation ("Lender") to Fifty Joint Venture, a Nebraska General Partnership ("Owner") covering the premises legally described as Lot 1 and Lot 4 Spring Valley, an addition to the City of Omaha, Douglas County, Nebraska. Plaza

Lender herewith consents to the execution of the foregoing Lot 3 Declaration by Owner. Further, Lender hereby subordinates the priority and superiority of its combination Deed of Trust, Security Agreement and Fixture Financing Statement dated August 29, 1991 and recorded August 30, 1991, in Mortgage Records, Book 3662, Pages 138-181, Douglas County, Nebraska to the foregoing Lot 3 Declaration.

This Consent and Subordination is executed this 11th day of November, 1993.

LUTHERAN BROTHERHOOD

By Betty M. Keohokalole

IMPRINTED CORPORATE SEAL REGISTER OF DEEDS

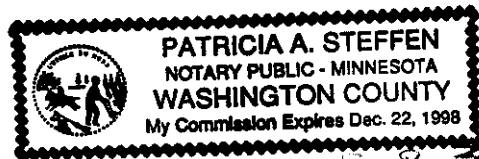
ACKNOWLEDGMENTS

STATE OF MINNESOTA)) ss. COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 11th day of October, 1993, by Betty M. Keohokalole, Assistant Vice President, on behalf of Lutheran Brotherhood, a Minnesota Corporation.

Patricia A. Steffen Notary Public

NOTARIAL SEAL AFFIXED REGISTER OF DEEDS



Handwritten notes: 30570H, CASH BK 1103 R COMP FB 47-15440, TYPE misc PG 108-176, FEE 4750 OF misc, LEGL PG MC FV

RECEIVED NOV 18 3 18 PM '93 GEORGE J. BUSTENIEZ REGISTER OF DEEDS DOUGLAS COUNTY, MN