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**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR COTTONWOOD CREEK, INC.
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION made on the date hereinafter set forth, by Cottonwood Creek, Inc., a Nebraska corporation ("Declarant").

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 92, inclusive, in Cottonwood Creek Replat 1, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

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

The Declarant desires to provide for the preservation, protection and enhancement of the values and amenities of such community and for the maintenance of the character, value, desirability, attractiveness and residential integrity of the Lots.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements ("the Covenants"), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots. These restrictions, covenants, conditions and easements shall run with such real estate and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot are and shall be subject to all and each of the following conditions and other terms:

Return to: Robert F. Peterson, Laughlin, Peterson & Lang, 11718 Nicholas Street, Suite 101, Omaha, Nebraska 68154

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ARTICLE I
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for residential purposes except for the Outlots which will be conveyed or dedicated by Declarant, for common or public use purposes.

2. For a period of ten (10) years after the filing of this Declaration or the date that the Declarant is no longer the owner of any lot or lots, whichever first occurs, no residence, building, fence, wall, driveway, patio enclosure, rock garden, swimming pool, tennis court, doghouse, stable, treehouse, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, tool shed, windmill, wind generating equipment, or other external Improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which received the prior approval of Declarant as follows:

A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "Plans"). Such Plans shall be consistent with these Covenants and reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the Plans, owner shall notify the Declarant of the owner's mailing address.

B. Declarant shall review such Plans in relation to the type and exterior of Improvements and construction or approved for construction, on neighboring Lots and in the surrounding area and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C. Written notice of any approval to construct a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the Plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the Plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed denied by Declarant.

D. The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the value, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

E. Upon formation of the Association as set forth in Article III below, the Declarant may delegate the design review function to the Association's Design Review Committee. Declarant shall retain the right to terminate any such delegation of function so long as it still is the owner of one or more Lots and the ten (10) year period has not elapsed.

Unless earlier otherwise transferred to the Association, upon the expiration of the aforementioned ten (10) year period or when the Declarant no longer owns any Lots, Declarant's rights set forth above shall be transferred to, and administered by the Association set forth in Article III below. Upon such transfer, the Association shall succeed to all the rights of the Declarant to the extent that wherein the term Declarant is used in this Declaration the term Cottonwood Creek Homeowners Association, Inc. shall be substituted therefore.

ARTICLE II RESTRICTIONS FOR RESIDENTIAL DWELLINGS

1. Single Family Lots. Lots 1 through 92 shall be subject to the following restrictions.

A. The Lots shall be used only for residential purposes, and no lot shall contain more than one (1) single family unit.

B. No dwelling shall be created, altered, placed or permitted to remain on any Lot other than the single family dwellings referred to above, and said dwellings shall conform to the following requirements:

i. Each one story dwelling shall contain no less than 1050 square feet of living area above the basement level and exclusive of garage area on all lots.

ii. Each one and one-half story or two story dwelling shall contain no less than 1350 square feet of total living area above the basement level with a minimum of 800 square feet on the main floor, exclusive of garage area on all lots.

iii. Each split-level or split-entry dwelling shall contain no less than 1050 square feet of living area above the basement level, exclusive of garage area, on all lots.

iv. Each tri-level dwelling shall contain no less than 1200 square feet of living area above the basement level, exclusive of garage area on all lots.

v. All buildings on all lots shall comply with the set back requirements of the Zoning Code and Applicable Requirements of the City of Omaha as the same may be amended from time to time.

2. General Restrictions. All dwelling units described above shall comply with the following restrictions.

A. All dwellings shall, as a minimum, have attached, built in, or enclosed, side-by-side two car garages which must contain a minimum area of 400 square feet. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

B. For the purposes of these restrictions, living area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. To be considered ground level the exterior elevation shall not be more than forty (40) inches above the basement floor and at least two (2) walls must be at ground level.

C. Exposed portions of the foundation on the front of each dwelling and street side of foundations on corner lots are to be covered with clay-fired brick or stone or framed with materials matching the house siding.

D. No fence shall be constructed, or permitted to be placed in front of the front building line of the main residence erected on each lot. All fence installations shall first require the approval from Declarant or Design Review Committee and then the procurement of a permit from the City of Omaha, in accordance with the then applicable ordinances and codes.

E. No dog runs shall be constructed unless shielded from view of neighboring lots by rear yard privacy fencing not less than six (6) feet in height.

F. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No precut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

G. No trailer, recreational vehicle, motor home, tractor or unlicensed vehicle of any type shall be permitted to be placed or parked on any portion of the properties unless in the process of loading or unloading its contents.

H. Public concrete sidewalks four feet (4') wide by four inches (4") thick shall be constructed by the then Owner of a Lot prior to the time of completion of a dwelling, or as soon as weather permits. Owners of corner lots shall construct sidewalks along each street side of the lot. Each dwelling unit shall have a paved driveway extending between the street and garage of not less than sixteen feet (16') in width; the driveway shall be of concrete or brick.

I. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

J. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any waste materials, and shall be maintained level and smooth enough for machine mowing. Nothing herein contained shall prohibit Declarant from utilizing lots within the properties for placement of usable building materials, equipment or earth for reasonable periods of time in anticipation of construction commencement on such properties.

K. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

L. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

M. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

N. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding Twenty Four inches (24") by Thirty Six inches (36") in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Elkhorn Highlands.

O. All driveways shall be constructed of concrete or brick.

P. No television antenna, or antenna of any kind or nature, except satellite dishes, shall be allowed on the Lots except that if they are inside the dwellings or otherwise completely concealed from view from all other Lots television antennas will be allowed.

Q. One non-metal, detached structure shall be allowed only pursuant to these Covenants and the existing building codes for the applicable governmental subdivision. Plans and approval for same shall be subject to the architectural control provisions of Article I, Paragraph 2 hereof. Such detached structures shall be compatible with the dwelling unit in color, decor and dimension. In no event shall construction of such detached structure commence until the dwelling unit construction has passed inspection by the local governing body, unless construction is done by the builder in conjunction with the dwelling unit. In all events, construction of such detached structure shall be completed within sixty (60) days of commencement.

ARTICLE III
EASEMENTS

A perpetual license and easement is hereby granted to the Omaha Public Power District, Qwest Communications and any company which has been granted a franchise to provide a cable television system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair and renew poles, wires, cables, conduits and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary lot lines and an eight foot (8') wide strip of land abutting all rear lot lines of all lots. A perpetual easement is hereby granted to the City of Omaha, Douglas County, Nebraska, and Metropolitan Utilities District, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five foot (5') wide strip of land abutting all streets, avenues and circles. No permanent buildings, trees or retaining walls or loose rock walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping sidewalks, driveways and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted. All such utility service lines from the property line to dwelling shall be underground.

ARTICLE IV
HOMEOWNER'S ASSOCIATION

1. The following definitions shall apply for the purposes of this Article:

A. "Association" shall mean and refer to the Cottonwood Creek Homeowners Association, its successors and assigns, a Nebraska nonprofit corporation.

B. "Improved Lot" shall mean and refer to any Lot within Cottonwood Creek on which a dwelling has been erected and the construction thereof is substantially complete.

All other definitions contained in Article I will likewise be applicable to this Article.

2. Every owner of a lot shall be a member of the Association to be established for the purpose of maintaining any landscaping on public right of way and entryway signage, or public fencing, for the Cottonwood Creek Subdivision and to perform any other obligation specified herein. The Association shall include all of the lots in the Cottonwood Creek Subdivision as defined in this Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

3. The Declarant, for each Lot owned within the Cottonwood Creek Subdivision, hereby covenants and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so

expressed in such deed, is deemed to covenant and agree to pay to the Association regular annual assessments for the charges for the purposes hereinafter set forth, which assessments, together with interest, costs, and reasonable attorneys' fees shall be and constitute until paid, a continuing charge against and a lien upon such Lot or property against which each such assessment is made.

4. The assessments levied by the Association shall be used exclusively by the Association without any part of the net earnings inuring to the private benefit of its members to fulfill the responsibility of the Association as set forth in its Articles of Incorporation, Bylaws and this Declaration.

5. Before each fiscal year, the Board of Directors of the Association shall adopt and fix in reasonably itemized detail an annual budget for the then anticipated fiscal affairs and general operations for the Association for such fiscal year, and shall levy and collect annual assessments from each Lot, which shall be sufficient to fund the budgeted expenses for the fiscal year.

6. The regular annual assessments provide for herein shall commence as to all Lots on the first day of the month following the filing of this Declaration. The regular annual assessments provided herein as to all improved Lots shall commence the first day of the month following the month during which the dwelling was substantially completed. The first regular annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment. Written notice of the annual assessment shall be sent to every owner subject thereto. The due date shall be January 1 of each year. The Association shall, upon demand, and for a reasonable charge, furnish a certification signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid.

7. Any assessment not paid within thirty (30) days after the due date, together with all costs, shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may foreclose the lien against the property in the same manner as provided by law for foreclosure of mortgages upon filing a Notice of Lien with the Register of Deeds of Douglas County, Nebraska. Such Notice of Lien shall be acknowledged by Declarant or an officer of the Association and shall set forth the name(s) of the record owner(s) of the Lot, the amount of the lien and the legal description of the Lot against which the lien has attached. A copy of the Notice of Lien shall be mailed (certified mail return receipt requested) to the record owner(s) of the Lot at the Lot address. The amount of the lien for purposes of collection shall be the total of the unpaid dues, assessments charges, and all expenses of collection including reasonable attorneys' fees.

8. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale of transfer of any Lot pursuant to a mortgage foreclosure or any proceedings in lieu thereof shall extinguish the lien of such assessments relating to amounts which became 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. Notwithstanding the extinguishment of the lien through a

foreclosure of a prior mortgage or deed of trust, the owner of the Lot against which such assessment was made shall be and remain personally liable for all unpaid dues, charges and assessments accruing before such foreclosure was completed.

9. All Lots dedicated to, and accepted by, a local public authority and all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Nebraska shall be exempt from the assessments created herein. However, no land or Improvements devoted to dwelling use shall be exempt from said assessments.

10. The Association is a nonprofit corporation originally formed by the Declarant and its Articles of Incorporation and Bylaws, to the extent not inconsistent with this Declaration, are hereby incorporated herein by this reference. In the event of any conflict between the Articles and/or Bylaws of the corporation and this Declaration, this Declaration shall control.

11. The City of Omaha shall have the right to enforce by a proceeding at law or in equity, the provisions of this Article after annexation, for the sole purposes of collecting assessments to pay for the maintenance of the improvements provided in paragraph 2 of this Article and enforcing compliance with paragraph 12 of this Articles.

12. The Association shall enter into a maintenance agreement with Sanitary and Improvement District No. 505 of Douglas County, Nebraska and the City of Omaha which obligates the Association on a permanent and continuous basis to provide for the proper and continuous maintenance and upkeep of all mediums, street islands and common areas within the Cottonwood Creek subdivision, including all subdivision signs, entrance signs and related fixtures including all landscaping.

ARTICLE V GENERAL PROVISIONS

1. The Declarant, the Association, their successors in interest or any owner of a Lot shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now, or hereinafter imposed by the provision of this Declaration including all amendments or modifications hereof, either to prevent or restrain any violation or to recover damages of any kind or nature whatsoever resulting from such violation. Failure by the Declarant, the Association or their successors in interest or by the owner of any Lot to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of any rights of the Declarant, the Association or any owner to enforce any other reservation, restriction, condition or covenant thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of this Declaration is recorded. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods unless with the written consent of the City of Omaha it is terminated or amended by the

owners of not less than seventy five percent (75%) of the Lots, which termination or amendment shall thereupon become binding upon all the lots. This Declaration with the written consent of the City of Omaha, may be amended by Declarant or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date hereof or until such time as it no longer is the owner of any of the Lots.

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

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 29 day of March, 2004.

ATTEST: COTTONWOOD CREEK, INC.,
a Nebraska corporation,

JeAnn Sudbeck Secretary By: Melvin J. Sudbeck
Its President

STATE OF NEBRASKA]
COUNTY OF Douglas]SS:

On this 29 day of March, 2004, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Melvin J. Sudbeck, personally known by me to be the President of Cottonwood Creek, Inc., and JeAnn Sudbeck, personally known by me to be the Secretary of said corporation, and the identical persons whose names are affixed to the foregoing instrument, and they acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



Marilyn Kuehl
Notary Public