

FILED SARPY CO. NE.  
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2008-32420  
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*Sharon J. ...*  
REGISTER OF DEEDS

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**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF HILL VIEW TOWNHOME OWNERS ASSOCIATION**

THIS DECLARATION, made on the date hereinafter set forth by owners making up Hill View Townhome Owners Association, a Nebraska non profit corporation, hereinafter referred to as "Association."

WITNESSETH:

WHEREAS, Association members are the owners of certain real property in Hill View, the County of Sarpy, State of Nebraska, which is more particularly described as:

Sublots 1 through 30, inclusive, of Lot 66, HILL VIEW, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

NOW THEREFORE, the members hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. This Declaration amends and restates the Declaration filed on or about the 20<sup>th</sup> day of April, 2004 as Instrument #200413901 in the Office of the Sarpy County Register of Deeds. It is amended pursuant to Article X, Section 3.

**ARTICLE I  
Definitions**

Section 1. "Association shall mean and refer to Hill View Townhome Owners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of

DOUGLAS W. RUGE  
ATTORNEY AT LAW

14769 California Street  
Omaha, Nebraska 68154

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the Association and excluding such properties that are hereafter be detached from jurisdiction of the Association by amendment to this Declaration.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" was formerly Hill View Development, L.L.C. and the Declarant no longer is a member of the Association as it has sold all lots voliative to the Association and the subdivision.

**ARTICLE II**  
**Membership and Voting Rights**

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Members shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

**ARTICLE III**  
**Covenant for Maintenance Assessments**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges as hereinafter provided, as such assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Effective January 1 of each year the maximum annual assessment shall be One Thousand Three Hundred Twenty Dollars (\$1,320.00) per Lot. For the purposes of determining the amount of the maximum annual assessment, any assessments or charges levied pursuant to Article III, Section 7 and/or Article IV, Section 2 shall not be included.

- a. From and after January 1, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- b. From and after January 1, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of members who are

voting in person or by absentee ballots, at a meeting duly called for this purpose.

- c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Notice and Quorum for Any Action Authorized Under Sections 2 and 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 2 and 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At each meeting called, the presence of members or their absentee ballots entitled to cast sixty percent (60%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Uniform Rate of Assessment. Except as provided for in Article III, Section 7 and Article IV, Section 2, annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or other periodic basis, as may be established by the Board.

Section 6. Date of Commencement of Annual Assessments: Due Dates: The annual assessments provided for herein shall apply as to all Lots at the sole discretion of the Board. 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 period. The assessments may be collected on a monthly or other periodic basis by the Association. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

Section 7. Assessments: Apportionment. Assessments shall be paid pro-rata by the owners of all Lots based upon the total number of Lots. Assessments may be assessed against Lots where inordinate wear, tear and/or damage occurs to the items to be maintained by the Association due to the fault or negligence of a Lot owner.

Section 8. Certificate of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association or a designated agent of the Association setting forth whether the assessment on a specified Lot have been paid. A properly executed certificate of the Association as to the statute of assessment on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear the maximum rate of interest allowable by law. Should any assessment remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any court having jurisdiction of actions for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment of title or transfer of such Owner's Lot.

Section 10. Subordination of Assessments. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, and the holder of any first mortgage, on any Lot may rely on this provision without the necessity of the execution of

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any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the statute or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage thereon is in default, if such Board of Directors determines that such lien has not value to the Association. No mortgagee shall be required to collect any assessments due.

**ARTICLE IV**  
**Exterior Maintenance**

The Association will provide maintenance upon each Lot as set forth hereinafter.

Section 1. Assessments levied against each Lot, as defined in Article I, Section 4, may be assessed for, but not limited to, the following:

- (a) Maintenance, including mowing, weedeating, fertilizing and aerating of the lawns. The owner is responsible for the replacement of all dead landscaping improvements. The Owner agrees to allow the Association to replace such dead landscape improvements at the expense of the Owner and the Owner shall reimburse the Association on demand.
- (b) It is the Owner's sole responsibility to maintain the underground watering system on Owner's Lot, including but not limited to turning off such system and clearing the pipes of such system during periods in which freezing temperatures may occur, and Owner shall remain liable for any damage caused to such system by a failure to maintain the same;
- (c) Painting of the exterior of each dwelling upon each Lot;
- (d) Providing trash pickup service for each Lot;
- (e) Providing snow removal for driveways, front sidewalks, front stoops and front steps for each Lot;
- (f) Providing such other services or maintenance as may be deemed appropriate by the Board or by a two-thirds (2/3) vote of the Association.

Section 2. With the exception of any duties undertaken pursuant to section 1 of this Article, the Association shall have no duty to repair, replace or maintain any concrete surfaces, buildings, systems, fences or other improvements to the Properties, but may, at its discretion, in the event that any Owner of any Lot in the Properties has not maintained, replaced or kept repaired the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to maintain, repair (including painting), restore and replace the Lot and

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the exterior of the buildings and any other improvements erected thereon, including, but not limited to any roofs, gutters, concrete, exterior walls, glass surfaces, doors, door openers, and cooling units for air condition systems which have not been so maintained, repaired or replaced. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

**ARTICLE V**

**Architectural Control**

No fence shall be commenced, erected or maintained upon the Properties, except fences made of black, vinyl coated, chain link. No exterior painting shall be commenced upon the Properties except such painting as shall be approved by the Association. No building, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, and in relation to other trees, shrubs and plantings, by the Board of Directors of the Association, its successors or assigns, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to act upon such design and location within thirty (30) days after said plans and specifications have been submitted to it, such failure to act shall be deemed disapproval.

**ARTICLE VI**

**Party Walls**

Section 1. Each wall which is built as part of the original construction of any dwelling upon the Lots, and which is placed on the dividing line between any adjoining Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. The cost of reasonable repairs and maintenance of any party wall shall be shared by the owners who make use of such party wall in proportion to the length of each Lot and party wall.

Section 3. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owner and owners shall thereafter make use of such party wall, such other owner or owners shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owner or owners to call for a larger contribution from other owners under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Notwithstanding any other provision of this Article, an owner who, by his negligent or willful act, causes the party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements and repair of damage caused by the elements.

Section 5. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

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Section 6. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each owner involved shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and all owners shall be bound by any decision arrived at by a majority of all such arbitrators. Arbitration shall be governed by the terms of the Uniform Arbitration Act, to the extent consistent with the foregoing provisions.

**ARTICLE VII**  
**General Restrictions and Other Provisions**

Section 1. Every Owner shall have full rights of ownership and full use and enjoyment of his Lot, subject to the following restrictions:

- (a) No business, trade, occupation or profession of any kind shall be conducted, maintained or permitted, on any part of the Properties, or shall any signs be displayed by any person, without the prior written authorization of the Association or the Board, provided, however, owners may display "For Sale" signs or similar sales signs in connection with selling their respective Lots. Nothing in this Section is intended to restrict the right of any Lot Owner from keeping his or her personal business or professional records or accounts therein, or handling his or her personal business calls or correspondence therefrom, but all the express restrictions herein contained about use of displays and signs shall nonetheless be and remain in full force and effect and prohibits such activity concerning any personal business or professional records or accounts. In accordance with the foregoing, the Lots shall be and are restricted exclusively to owner occupied residential use, (i.e., no leases or rentals) and neither trade nor business of any kind other than as set forth hereinabove may be conducted in or from a Lot.
- (b) No animal, livestock, or poultry of any kind shall be raised, bred, or kept on any part of the Property, other than non-exotic household pets. All pets shall be leashed when outside the residential structure and patio area. No such pet shall be kept, bred, or maintained for any commercial purposes. The Board of Directors of the Association shall make reasonable rules and regulations for the accommodation of pets.
- (c) No fences, except black, vinyl coated, chain link fence, or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on any Lot within the Properties without the express written consent of the the Board of Directors of the Association.
- (d) No vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the

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properties shall be allowed on the Properties. The Association is expressly authorized to tow away, at an offending owner's expense, any vehicle referred to in this Section which is in violation hereof or in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored or allowed to remain parked in the subdivision, except in an area, if any, designated by the Board of Directors or except as otherwise permitted by the Association's Board of Directors.

- (e) No sign, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Properties subject to this Declaration, nor shall such Properties be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot thereof.
- (f) No offensive or unsightly appearance shall be maintained or allowed to exist upon the Properties, nor shall any trash, ashes or other refuse be thrown, placed, or dumped upon any Lot, nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood. The Association shall have the right to require all owners to place trash and garbage in containers located in areas as may be designated by the Association. No incinerators shall be kept or maintained on any Lot. All rubbish, trash, and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. Trash cans, garbage cans and other receptacles for trash and/or garbage shall be stored indoors except for one day per week specifically for garbage and/or trash collection by a professional garbage and/or trash hauler.
- (g) No machinery or equipment of any kind shall be stored or maintained upon the Properties.
- (h) No outside clothes lines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any of the Lots.
- (i) No television antenna or radio receiver, satellite dish exceeding 18" in diameter, or other similar device shall be attached to or installed on any Lot, unless contained entirely within the interior of a dwelling or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot, which may unreasonably interfere with the reception of television or radio signals within the Properties.

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- (j) No improper, offensive, or unlawful use shall be made on any part of the Properties. All valid laws, zoning ordinances, and regulations of all government bodies having jurisdiction over the subdivision shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.
- (k) De-icing material or sand shall be utilized, at any time necessary, on any driveway, sidewalk, stoop or step within the Properties.
- (l) All Townhome units shall be Owner occupied and, in no event, shall any Lot be rented to any person or entity.

In addition to the restrictions above, the Association shall have the right to make and to enforce reasonable rules and regulations governing the use of the Lots.

### **ARTICLE VIII**

#### **Access**

The Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

### **ARTICLE IX**

#### **Insurance**

**Section 1. Townhome Owner's All-Risk Insurance.** Each Owner shall procure and maintain all-risk coverage insurance for the Owner's Lot and improvements thereon in amounts satisfactory to the Association or Board. Proof of insurance shall be submitted annually to the Association or Board according to the rules and regulations established by the Association or Board. The Board may reasonably determine that a Lot requires flood insurance and require the owner to obtain standard flood insurance for the Lot and improvements. The Board may so require even if there is not a mortgage or deed of trust against the Lot.

**Section 2. Liability Insurance.** The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association may provide liability coverage insurance for the Association's Officers, and members of the Board of Directors. In addition, the Association may purchase such additional insurance against other hazards which may be deemed appropriate by the Board of Directors.



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Section 3. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient.

**ARTICLE X**  
**General Provisions**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Amended and Restated Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Amended and Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be modified within five (5) years of the date of this instrument, only by unanimous written consent of Lot Owners. Thereafter, this Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property may be annexed to the Properties by the Declarant or with the consent of two-thirds (2/3) of the members of the Association.

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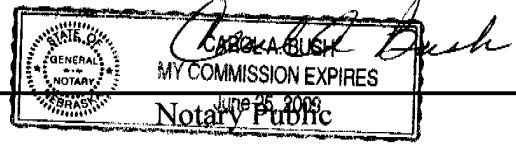
The undersigned represent Owners of 75% of the Lots of the properties:

Michelle Dobbs

# 16903

MICHELLE DOBBS

Subscribed and sworn to before me this 4 day of Nov., 2008., by Michelle Dobbs.

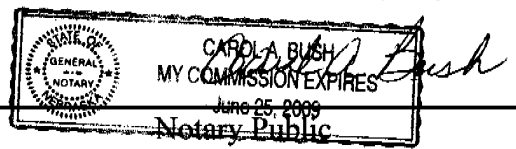


Molly Mazour

# 16907

MOLLY MAZOUR

Subscribed and sworn to before me this 6<sup>th</sup> day of NOV., 2008. by Molly Mazour.



\_\_\_\_\_

# 16915

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

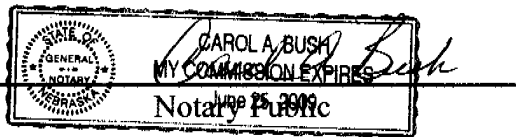
\_\_\_\_\_  
Notary Public

Brian M. Evans

# 16911

BRIAN M. EVANS

Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Brian M. Evans.

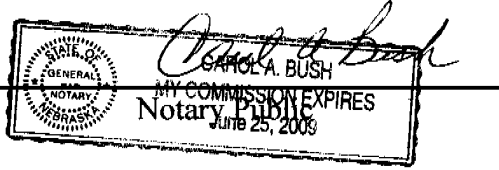


Harold Bestenlehner

#16919

HAROLD BESTENLEHNER

Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008., by Harold Bestenlehner.



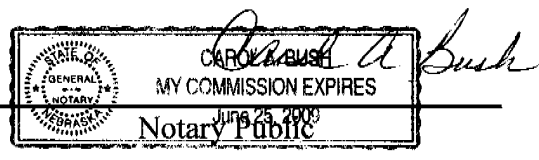
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\_\_\_\_\_  
# 16923  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

*Kathleen Gotto*  
\_\_\_\_\_  
# 17007  
KATHLEEN GOTTO

Subscribed and sworn to before me this 1st day of Nov., 2008, by Kathleen Gotto.



\_\_\_\_\_  
# 17011  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
# 17015  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
# 17019  
Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

K

# 17023

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Notary Public

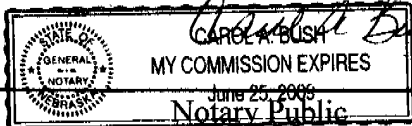
# 17027

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

Notary Public

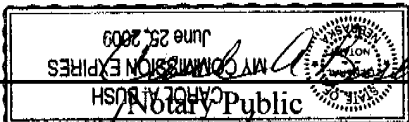
Dick Fischer # 17031  
DICK FISCHER

Subscribed and sworn to before me this 11-9-08 day of \_\_\_\_\_, 2008, by Dick Fischer



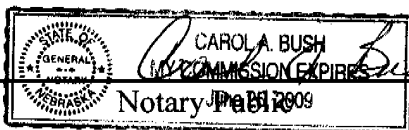
Olafur E. Jonsson # 17035  
OLAFUR E. JONSSON

Subscribed and sworn to before me this 9 day of Nov., 2008, by Olafur E. Jonsson.



Steve Herrick # 17103  
STEVE HERRICK

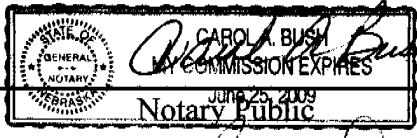
Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Steve Herrick



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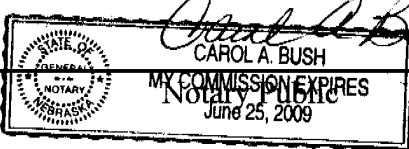
Pauline M. Smith # 17107  
PAULINE M. SMITH

Subscribed and sworn to before me this 9<sup>th</sup> day of Nov., 2008, by Pauline M. Smith.



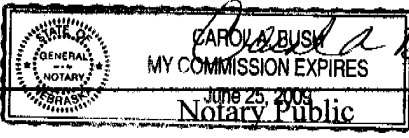
Judith D. Ballard # 17111  
JUDITH D. BALLARD

Subscribed and sworn to before me this 9<sup>th</sup> day of Nov., 2008, by Judith D. Ballard.



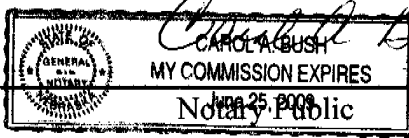
Marilyn Headlee # 17115  
MARILYN HEADLEE

Subscribed and sworn to before me this 6<sup>th</sup> day of Nov., 2008, by Marilyn Headlee



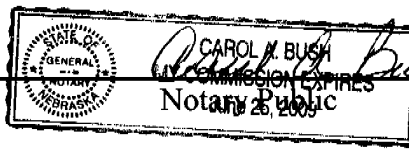
M. Annabelle Kent # 17119  
M. ANNABELLE KENT

Subscribed and sworn to before me this 9<sup>th</sup> day of Nov., 2008, by M. Annabelle Kent.



Barry Martin # 17123  
BARRY MARTIN

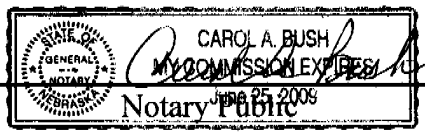
Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Barry Martin.



M

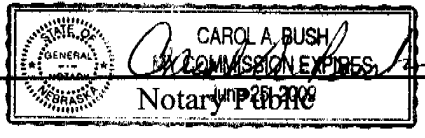
Sharon Buchanan # 17127  
SHARON BUCHANAN

Subscribed and sworn to before me this 12<sup>th</sup> day of November, 2008., by Sharon Buchanan.



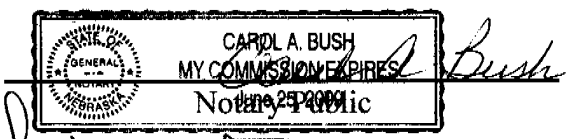
Linda Knapp # 17131  
LINDA KNAPP

Subscribed and sworn to before me this 6 day of November, 2008., by Linda Knapp.



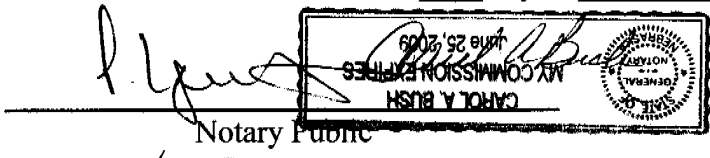
Kathleen Yutesler # 17201  
KATHLEEN YUTESLER

Subscribed and sworn to before me this 6 day of Nov, 2008., by Kathleen Yutesler.



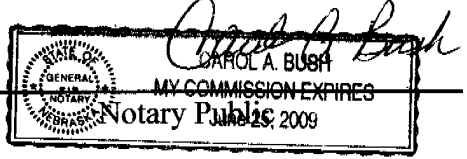
Patricia Yutesler # 17205  
PATRICIA YUTESLER

Subscribed and sworn to before me this 9 day of Nov, 2008., by Patricia Yutesler.



Mary E. Essington # 17209  
MARY E. ESSINGTON

Subscribed and sworn to before me this 9<sup>th</sup> day of November, 2008., by Mary E. Essington.



Deb Garza  
DEB GARZA

# 17213

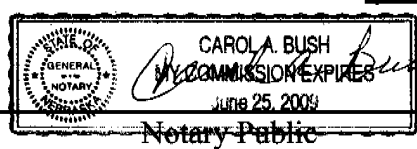
Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Deb Garza.



Jack L. Hausmann  
JACK L. HAUSMANN

# 17217

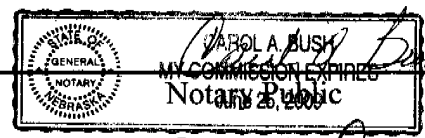
Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Jack L. Hausman.



Ann M. Duncan  
ANN M. DUNCAN

# 17221

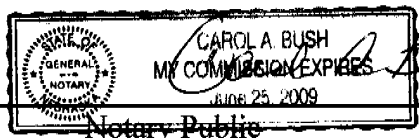
Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2008, by Ann M. Duncan.



Donald W. Crawford  
DONALD W. CRAWFORD

# 17225

Subscribed and sworn to before me this 9 day of November, 2008, by Donald W. Crawford.



Gary L. Witecki  
GARY L. WITECKI

# 17229

Subscribed and sworn to before me this NOV day of 6, 2008, by Gary L. Witecki.

