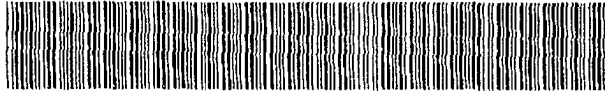


MISC 2006089235



AUG 07 2006 10:58 P 8

When recorded, return to:

Max J. Burbach
Koley Jessen P.C.
One Pacific Place, Suite 800
1125 South 103 Street
Omaha, Nebraska 68124-1079

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
8/7/2006 10:58:45.20



2006089235

**EASEMENTS, COVENANTS
AND RESTRICTIONS**

This instrument (the "ECR") is made as of August 4, 2006, by BREMCON NE, LLC, a Minnesota limited liability company ("Declarant").

RECITALS

A. Declarant is the fee owner of Lot 1 ("Lot 1") and Lot 2 ("Lot 2") of Maple Creek Replat, as more particularly described on Exhibit "A" attached hereto (collectively, the "Property");

B. Declarant desires to establish the easements, covenants, and restrictions herein set forth with respect to the Property.

NOW, THEREFORE, in consideration of the covenants herein contained, it is declared as follows:

**ARTICLE 1
DEFINITIONS**

- 1.1 Building. "Building" shall mean any building which is constructed on the Property.
- 1.2 Common Areas. "Common Areas" shall mean all parking areas, driveways and sidewalks on the Property as they may exist from time to time, and other areas designated by the Owners for the non-exclusive use of the tenants and occupants of the Property.

338783.2

1

B

misc

FEE	4100	FB	MC-2360210
BKP		C/O	COMP <i>BO</i>
DEL		SCAN	FV

8/2

719851 35

160031

- 1.3 Common Parking Areas. "Common Parking Areas" shall mean all parking areas on the Property as they may exist from time to time for the parking of motor vehicles.
- 1.4 Occupant. "Occupant" shall mean any person from time to time entitled to the use and occupancy of any portion of any Building on Lot 1 or Lot 2.
- 1.5 Owner. "Owner" shall initially mean Declarant. After compliance with the Transfer Notice requirement set forth below in Section 1.9, "Owner" shall include any successors and assigns who become a fee owner of a Tract, or any common interest community association formed to operate and maintain such Tract. Each Owner shall be liable for the performance of all covenants, obligations and undertakings herein set forth with respect to its Tract which accrue during the period of its ownership, and such liability shall continue with respect to such Tract until the Transfer Notice requirement is complied with, at which time the transferring Owner shall have no liability for obligations accruing thereafter.
- 1.6 Permittees. "Permittees" shall mean each Owner, any Occupant, and the officers, employees, agents, contractors, customers and invitees of any of them insofar as their activities relate to the intended use of the Property.
- 1.7 Person. "Person" shall mean individuals, partnerships, limited liability companies, corporations, associations, and any other form of legal entity.
- 1.8 Tract. "Tract" shall mean Lot 1 and Lot 2 of the Property.
- 1.9 Transfer Notice. An Owner transferring all or any portion of its fee interest in a Tract shall give notice (a "Transfer Notice") to all other Owners of such transfer and shall include therein at least the following information:
 - a. the name and address of the transferee; and
 - b. a copy of the legal description of the Tract transferred.

Upon each initial sale of a Tract by Declarant, Declarant shall be deemed to have complied with this Section with respect to such transfer.

- 1.10 Utility Lines. "Utility Lines" shall mean all facilities and systems located within the Common Areas for the transmission of utility services which provide such service to all or any portion of the Property, the Common Areas or any Building.

ARTICLE 2 EASEMENTS

The following reciprocal, non-exclusive, perpetual easements are hereby established and granted by Declarant for the benefit of the Persons specified below:

- 2.1 Easement for Ingress and Egress. An easement for the purpose of vehicular and pedestrian ingress and egress over and across all Common Areas, for the benefit of all Permittees. An Owner may close any driveways on its Tract which provides access to and from adjacent streets for repairs or reconstruction so long as at least one (1) traffic lane in each driveway remains open at all times and so long as the Permittees have access to and from Pinkney Street and 162nd Street, and if said closure is to exceed three (3) consecutive days, it does not involve more than one such driveway at a time.
- 2.2 Easement for Parking. An easement for the parking of vehicles on all Common Parking Areas, for the benefit of all Permittees.
- 2.3 Easement for Utilities. An easement for the installation, maintenance and use of all Utility Lines, for the benefit of the Owners. The locations of all Utility Lines must be approved in writing by the Owners prior to the installation thereof.
- 2.4 Easement for Drainage. An easement to discharge storm water across and through the surface areas of the Property, for the benefit of the Owners.
- 2.5 Easement for Landscaping. An easement for the installation, maintenance, repair and replacement of landscaping and related utilities over and across all Common Areas and other portions of the Property, for the benefit of the Owners.

No Owner (other than Declarant) shall grant any easement on or over any portion of its Tract for the benefit of any property not within the Property or for the benefit of any Person who is not a Permittee. Any easement granted by an Owner shall not adversely affect the use or occupancy of the Property by any other Owner or its Permittees. All easements run with and are appurtenant to the Tracts benefited thereby.

ARTICLE 3 COVENANTS AND RESTRICTIONS

- 3.1 Maintenance. Each Owner shall cause the Buildings on its Tract to be maintained in good condition and repair.
- 3.2 Restriction on Use of Parking Areas. The Common Parking Areas shall not be used by any person who is not a Permittee. The Owner of each Tract shall have the right to take all actions necessary to prevent such unauthorized persons from parking in the Common Parking Areas located on such Tract.

**ARTICLE 4
NOTICES**

All notices, demands and requests under this ECR must be in writing, and will not be effective unless given by prepaid registered or certified mail, return receipt requested, by nationally recognized commercial overnight courier service, by hand-delivery with a signed acknowledgement of receipt by the receiving party, or by confirmed facsimile transmittal (if a facsimile number is given below) (provided that facsimile notices must concurrently be given by one of the other permitted means of delivery set forth above), addressed as follows:

Declarant:	Bremcon NE, LLC Attn: Bryan Breems 1038 Centerville Cir. Vadnais Hts., MN 55127
Any other Owner:	To the address specified in the Transfer Notice of such Owner.

Any Owner may change its address or facsimile number by giving written notice of such change to all other Owners. The effective date of all notices shall be the date of receipt by the party to whom the notice is addressed (with any facsimile notice being effective upon receipt of the facsimile transmittal provided that such facsimile notice is concurrently given by one of the other permitted means of delivery set forth above), or if receipt of such notice is not accepted or is not possible due to a change in address or facsimile number for which the sending party did not receive notice, the effective date of such a notice shall be the date of attempted delivery.

**ARTICLE 5
TERM**

This ECR shall be effective upon the recordation hereof in the Official Records of Douglas County, Nebraska, and shall continue in effect until terminated by all Owners, which termination shall be effective only upon the recordation in the Official Records of Douglas County, Nebraska, of a written instrument of termination signed by all Owners.

**ARTICLE 6
MISCELLANEOUS**

- 6.1 Binding Effect. This ECR shall inure to the benefit of and be binding upon the Owners and their respective successors (including successors-in-title to all or any portion of the Tracts within the Property) and assigns, shall be appurtenant to the Property, and shall run with the land. Notwithstanding the foregoing, no Person shall succeed to the rights of the Declarant hereunder except as provided in Section 6.3.
- 6.2 Declarant's Rights. Declarant shall have the right, but not the obligation, to assign all of its rights under this ECR to any Person(s) who acquires fee title to a Tract from Declarant by executing a written assignment of such rights which

refers specifically to this ECR and which is recorded in the Official Records of Douglas County, Nebraska. Any such assignee of the rights of the Declarant hereunder shall have the right to further assign such rights to any Person who acquires fee title to a Tract from such assignee. If any Person holding the rights of Declarant hereunder has not recorded a written assignment of such rights at the time it conveys fee title to the last Tract within the Property owned by it, then the grantee of such Tract shall automatically succeed to all rights of the Declarant accruing hereunder from and after the date of such conveyance.

- 6.3 Amendments. This ECR may be amended by, and only by, a written agreement executed by all of the Owners of the Property, which amendment shall be deemed effective only when recorded in the Official Records of Douglas County, Nebraska. No consent to the amendment of this ECR shall ever be required of any Occupant or Person other than as specified in the preceding sentence. Any amendments or modifications hereof (including any extensions and renewals hereof), whenever made, shall have the same priority as this ECR as if such amendment or modification had been executed concurrently herewith.
- 6.4 Exculpation. Notwithstanding anything to the contrary contained herein, any liability of an Owner hereunder or its successors and assigns shall be enforceable only against its interest in its Tract, or the proceeds therefrom, and in no event shall any such liability extend to or be enforceable against any other assets of such Owner or its successors and assigns or their officers, shareholders, members or partners or their other assets.
- 6.5 Enforcement. Each of the easements and restrictions herein contained shall be enforceable by injunction, specific performance or by any other appropriate course of action. No Occupant or Person other than the Owners shall have any right to enforce any provisions hereof.

[Signature appears on following page.]

IN WITNESS WHEREOF, Declarant has executed this ECR as of the day and year set forth above.

DECLARANT:

BREMCON NE, LLC, a Minnesota limited liability company

By: Bryan Breems

Name: BRYAN BREEMS

Its: Member / owner

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 3rd day of August, 2006, by BRYAN BREEMS, the OWNER, of Bremcon NE, LLC, a Minnesota limited liability company, on behalf of the company.



Sarah Baker
Notary Public

My Commission Expires:

9 Dec 2009

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Lots 1 and 2, Maple Creek Replat, a subdivision in Omaha, Douglas County, Nebraska.