



MISC 2008100125



OCT 14 2008 11:39 P 10

MISC 66-27530 relet
 10/ RESS00 FILE-30a35
 10/10/08 B/D COMP
 DEL SCAN PV
 CASW

Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
 10/14/2008 11:39:03.89



2008100125

THIS PAGE INCLUDED FOR INDEXING
 PAGE DOWN FOR BALANCE OF INSTRUMENT

Return To: Bob Kelly
3332 Pine Street
Omaha NE 68105
 Ph: 408-630-2921

Check Number

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF NORTH
RESERVE, A SUBDIVISION IN DOUGLAS COUNTY**

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the signatories hereto who are described as Declarant,

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Douglas County, Nebraska, more particularly described as follows:

Lots 1 through 8, inclusive, The North Reserve Replat, and lots 7 and 8, The North Reserve, a Subdivision located in Douglas County, Nebraska, as surveyed platted and recorded (herein called "Property"), and,

WHEREAS, the Property has been platted into a residential subdivision to be known as The North Reserve Subdivision and,

WHEREAS, Declarant desires to make all of Property, subject to the covenants, conditions and restrictions hereinafter set forth, and,

NOW, THEREFORE, Declarant hereby declares that all of Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purposes of enhancing and protecting the value, desirability, and attractiveness of owning Property, or any portion thereof, and for the enjoyment of the residents of Property. These restrictions, covenants, conditions, and easements shall run with all of the real estate in Property and shall be binding on all parties having any right, title or interest in Property, or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

Section 1.01 "Association" shall mean and refer to The North Reserve Homeowner's, Inc. a Nebraska non profit corporation.

Section 1.02 "Owner" shall mean and refer to:

- a. The record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of Property, but excluding those having such interest merely as security for the performance of an obligation, and
- b. The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which Seller retains title solely as security for the performance of the purchaser's obligation under the contract.

Section 1.03. "Property" shall mean and refer to Lots 1 through 8, inclusive, The North Reserve Replat, and lots 7 and 8, The North Reserve, a Subdivision located in Douglas County, Nebraska, as surveyed platted and recorded together with such additions thereto as may hereafter be platted, to be within the jurisdiction of these Declarations.

Section 1.04. "Lot" shall mean and refer to any part or parcel of Property as surveyed, platted and recorded.

Section 1.05. "Streets and Easements" shall be those areas designated as streets, roads, and easements in the Final Plat, or any Replat, of the Property.

Section 1.08. "Declarant" shall mean and refer to HP Real Estate Inc. , a Nebraska corporation, its successors and assigns.

ARTICLE II.

MEMBERSHIP AND VOTING RIGHTS

Section 2.01. Every Owner of a Lot within Property shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot.

Section 2.02. The Association shall have two classes of voting Members, Class A Members and Class B Members. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities or both, shall be members of the Association; PROVIDED, HOWEVER, that the vote for such Lot shall be exercised as such persons or entities or both shall determine, but in no event shall more than one vote be cast with respect to any one Lot. The two classes of voting Members are defined as follows:

- a. **CLASS A:** Class A Members shall be each Owner of a Lot, with the exception of a Class B Member. Each Class A Member shall be entitled to one vote for each Lot owned.
- b. **CLASS B:** Class B Members shall be Declarant, who shall be entitled to TWO VOTES for each Lot owned by the Declarant. Class B Membership shall terminate , with the Declarant or its successors and assigns then continuing to be entitled to one vote for each Lot owned by the Declarant or its successors and assigns as a Class A Member, upon the occurrence of the first of the following dates:
 - a) The date on which the total votes outstanding in the Class A membership shall equal the total votes outstanding in the Class B membership, or
 - b) October 20, 20013.

ARTICLE III.

COVENANT FOR ASSESSMENTS

Section 3.01. The Declarant and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or in such contract, is and shall be deemed to covenant and agree to pay to the Association:

- a. Annual assessments, and
- b. Special assessments for capital improvements,

such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on each Lot and shall be a continuing lien upon each Lot against which each such assessment shall be made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons, or entity who, or which, was the Owner of the Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title, unless expressly assumed by such Owner's successors.

Section 3.02. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the Owners of Lots in Property.

Section 3.03. The Association shall fix the annual assessment for regular maintenance of the Streets, Easements and Common Areas of Property and for all other necessary annual expenditures for the Association not deemed capital improvements, based on a budget approved by the Members of the Association.

Section 3.04. In addition to the annual assessment authorized above, the Association may levy a special assessment for the purpose of paying, in whole or part, the cost of capital improvements, and in particular, the cost of any construction, reconstruction, or repair or replacement, or additions or appurtenances thereto, of Streets, Easements, and Common Areas of Property and of any appurtenances located thereon, including any central water and/or sewage disposal system for the benefit of Property and including fixtures and personal property related thereto. Special assessments shall be approved by the affirmative vote of two-thirds (2/3) of the Members of Association entitled to vote.

Section 3.05. Written notice of any meeting called for the purpose of taking any action authorized under Section 3.03 or under Section 3.04 shall be sent to all Members at their respective addresses as appears on the books of the Association not less than 30 days or more than 60 days in advance of such meeting. At the first such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class 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 such subsequent meeting shall be fifty (50%) percent of all votes of each class of Membership. Any such subsequent meetings shall be held within 60 days following the preceding meeting. Written notice as to all other meetings of the Association shall be sent as above noted at least 10 days prior to the meeting to each member at their respective addresses as appears on the books of the Association.

Section 3.06. Annual assessments shall be uniform in amount as to all Lots, may be payable annually or in installments, and shall have a due date or dates. Special assessments may be uniform in amount as to all Lots or may be assessed against those Lots receiving the benefit of the capital improvement, may be payable annually or in installments, and shall have a due date or dates which may be more than one year from the date of assessment. Assessments payable in installments may accrue interest as specified by the Association.

Section 3.07. Written notice of an assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether or not the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot shall be binding upon the Association as of the date of its issuance by the Association.

Section 3.08. Any assessment not paid within thirty (30) days after the date due shall be delinquent and said assessment shall bear interest from the due date at the rate of fourteen (14%) percent per annum. Any assessment payable in installments shall be paid within thirty (30) days after the installment due date. Any assessment payable in installments not paid within thirty (30) days after the installment due date shall cause an acceleration of the full amount of the assessment and said assessment shall be due and payable in full and said assessment shall bear interest from said installment due date at the rate of fourteen (14%) percent per annum. The Association may bring any action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot assessed. No Owner may waive or escape liability for the assessment provided herein by non-use or abandonment of Owner's Lot or conveyance of Lot or by renunciation of Membership in the Association.

Section 3.09. The lien of 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 any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made

as provided herein. An officer of the Association may release the lien of any delinquent assessment on any Lot as to which the first mortgage thereon is in default, if such officer determines that such lien has no further value to the Association.

Section 3.10. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed 60 days for any infraction of the published rules and regulations of the Association by any such Owner, or members of such Owner's family, or guests or tenants of such Owner.

ARTICLE IV.

ARCHITECTURAL CONTROL

Section 4.01. Declarant shall have the exclusive right to establish grades and slopes for all Lots within Property and to fix the grade at which any buildings shall be constructed upon any Lot, in conformity with the general plan for the development of Property. Plans for any buildings or other improvements to be placed or constructed upon any Lot within Property shall be submitted to the Declarant and shall show the design, size, and exterior material for the building or improvement and the plot plan for the Lot, including the proposed landscape plan. One set of plans shall be left on permanent file with the Declarant. Construction of the building or improvement shall not be commenced unless written approval of the plans has been secured from the Declarant and shown of record. Written approval or disapproval of the plans shall be given by the Declarant within 30 days after receipt thereof. Approval of the plans shall not be unreasonably withheld, and upon disapproval, a written statement of the grounds for disapproval shall be provided. Declarant shall have the exclusive right to disapprove the plans, if in Declarant's opinion, the plans do not conform to the general standard of development in Property.

Section 4.02. Declarant may access a fee for the review of plans, which shall be paid by the Owner submitting plans for approval. The Declarant shall adopt a fee schedule for the review of plans, which may be amended from time to time by Declarant as Declarant deems necessary or appropriate. No submission for approval of plans will be considered until the designated fee has been paid. Such fee shall be commensurate with the cost of professional review of submittals and the services of a consultant to administer the matter to its completion, including inspections which may be required.

Section 4.03. The approval of plans for any landscaping, building or other improvement to be placed or constructed on any Lot within Property, or for any other matter requiring prior approval, should not be deemed a waiver of the right to withhold approval of any similar plans subsequently submitted for approval.

Section 4.04. No Owner or other person or persons shall have any right to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed plans. No responsibility, liability or obligation shall be assumed by or imposed upon the Declarant by virtue of the authority granted to it in this Article, or as a result of any act or failure to act with respect to any proposed plans. The Declarant shall not be liable to any Owner or to any other person for any damage suffered or claimed on account of any act or omission which occurs in connection with review, approval, or disapproval of plans, so long as the persons involved acted in good faith on the basis of information they then possessed.

Section 4.05. Declarant may, at Declarant's sole discretion, transfer all or any part of Declarant's rights pursuant to this Article to the Association.

ARTICLE V.

MINIMUM STANDARDS FOR APPROVAL OF PLANS

Section 5.01. All Lots in Property shall be used exclusively for single family residential purposes. There shall be no more than one building, which shall be the main residence, constructed upon any Lot within Property.

Section 5.02. A one (1) story single family residence shall contain at least 2,000 square feet of floor space on the first floor level exclusive of basement, garages, and other attached accessory floor area, i.e. deck/patio.

Section 5.03. A 1 1/2 story single family residence shall contain at least 1,600 square feet of floor area on the first floor exclusive of basement, garage, and other attached accessory floor area, i.e. deck/patio and at least 800 square feet of floor area on the second floor. A 2 story single family residence shall contain at least 1,350 square feet of floor area on the first floor exclusive of basement, garage, and other attached accessory floor area, i.e. deck/patio and at least and at least 1,350 square feet of floor area on the second floor.

Section 5.04. The square footage of any other style of single family residence shall be subject to the approval of Declarant.

Section 5.05. No outbuildings shall be constructed on any Lot.

Section 5.06. Each single family residential structure shall have an attached garage containing not less than two or more than three car stalls. Each car stall shall be a minimum of 10 feet by 21 feet. Garages containing more than three car stalls for single family residential dwellings shall be subject to the approval of Declarant.

Section 5.07. No log cabin homes, dome homes, earthen homes, A-frame type homes, prefabricated homes, house trailers, single wide or double wide, mobile homes, shall be permitted on any Lot in Property, provided, however, that new factory built modular housing may be permitted if approved by Declarant.

Section 5.08. All buildings in Property shall have, as a minimum, a 6/12 pitch roof and heritage type asphalt shingles upon the roof of each building.

Section 5.09. All exposed foundation walls facing any street must be constructed of or faced with brick or other material consistent with the overall design of Property. All driveways must be constructed of concrete from street to garage with a minimum with 22 feet. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick or other material consistent with the overall design of the Property.

Section 5.10. No wood decks or steps shall be permitted on the front side of any residential structure constructed on Property.

Section 5.11. All buildings within Property shall be constructed in conformity with the requirements of the applicable building codes of the City of Omaha, Nebraska including the R4 Single Family Residential District Regulations set forth in Chapter 55 of the Omaha Municipal Code.

ARTICLE VI.

GENERAL RESTRICTIONS AND OTHER PROVISIONS

Section 6.01. Every Owner shall have full rights of ownership and full use and enjoyment of Owner's Lot, subject to the following restrictions:

- a. No fences, hedges, or enclosures of any type or nature whatsoever shall be constructed, erected, placed or maintained on any Lot within Property, unless such fences, bridges, or enclosures shall have first been authorized in writing by Declarant. In no event shall front yard fences be permitted. No perimeter fences or hedges shall be allowed. Limited privacy fencing, up to six (6) feet in height, may be permitted around swimming pools and patios. Perimeter plantings may be permitted, but shall not exceed four (4) feet in height and may not be located within twenty (20) feet of the rear lot line or ten (10) feet of any side lot line.
- b. No clothesline or clothes hanger shall be constructed on any Lot or used on any Lot except a folding type clothes hanger may be permitted and then only in the deck/patio area.
- c. No exterior radio antenna shall be erected on any Lot within Property.
- d. No livestock, or poultry of any kind, which shall include but not be limited to cattle, swine, sheep, goats, horses, or fowl, shall be raised or kept on any Lot in Property, other than household pets, which shall be limited to two per household. Household pets shall mean a dog or a cat. All household pets shall be leashed when outside of the residential structure and deck/patio area. Excessive barking by a dog, either during the day or night, shall be cause for removal of the dog whether it is owned by guests or the Lot Owner. No household pets shall be kept, bred, or maintained for commercial purposes.
- e. No noxious, offensive, or illegal activity shall be carried on upon Property, 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 residents of Property.
- f. No recreational vehicles shall be parked or stored upon any Lot within Property, except within an enclosed structure. Recreational vehicles may be temporarily parked or stored upon a Lot for a period of time not to exceed 14 days per year.
- g. No advertising signs or billboards shall be permitted on any Lot with the exception of "for sale" signs, which shall not exceed nine square feet in size.
- h. No trailer, recreational vehicle, tent, shack, barn, or other outbuildings shall be constructed or placed upon a Lot to be used for human habitation, either temporarily or permanently, except a tent may be used for a limited time for recreational purposes.
- i. No boats, trailers, or any similar type vehicle, or accessories thereto, shall be parked outside of a garage or left unattended for longer than 21 days on any Lot.
- j. All garbage and refuse containers, or other unsightly objects, shall be housed or shielded from public view by a building, enclosure, or decorative fence. Outside storage of materials, supplies, garden, lawn, or maintenance equipment of any kind whatsoever shall be prohibited, except when in actual use.
- k. Any damaged or destroyed single family residence or other building on a Lot shall be promptly reconstructed or removed in a timely manner, but no later than within one year of the date of occurrence.
- l. No buildings of any kind whatsoever shall be moved onto any Lot, except that temporary buildings may be used for storage of tools and materials during construction of homes and development of Property.
- m. All improvements, including fences, and hedges, on all Lots in Property shall, at all times, be kept in good condition and repair, the state of repair to be determined by Declarant, their successors or assigns.
- n. Where Lots abut a cul-de-sac, the driveway access shall be only to the cul-de-sac; where Lots abut Ontario Street and 169th Circle, the driveway access shall only be to the adjacent street facing the front of the Lot.
- o. There shall be no exterior lighting, except for decorative lighting on improvements located on each Lot, unless said exterior lighting is first approved by Declarant, and shall either be indirect or of such a controlled focus and intensity as not to distribute the residents of adjacent Lots.
- p. Tree houses shall not be permitted.

- q. Only one satellite antenna, having a diameter of twenty (24") inches or less, may be installed and maintained on any Lot but only upon compliance with the following conditions:
1. Prior written approval of Declarant;
 2. The satellite antenna must be disguised to resemble and must be in fact, visually indistinguishable from other structures.
 3. The satellite antenna must not be visible from the front of the Lot upon which it is located.
 4. The Declarant does not guarantee or warrant that reception and/or transmission of signals will be adequate or will remain undisturbed by vegetation or improvements located on Property.
- a. All exterior colors for buildings located upon Lots shall be approved by Declarant.
 - b. No incinerator or trash burner shall be permitted on any Lot.
 - c. No firearms or guns of any type or nature whatsoever shall be fired or discharged upon, over, or across any Lot in Property.
 - d. All rubbish, trash and garbage shall be promptly removed from any Lot and shall not be burned by any open fire, incinerator, or otherwise on any Lot.
 - e. Any exterior air-conditioning condensing unit shall be placed in the rear yard or in any side yard so as not to be visible from public view from the street.
 - f. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve inches, unless such vegetation consists of native grasses which do not detract from the appearance of the surrounding area.
 - g. Basketball backboards shall be constructed of Plexiglas or acrylic materials and shall be supported by a metal post or posts, painted white or with a color which blends with the house, and anchored in concrete or mounted to the house. Backboards must be perpendicular to and adjacent to the driveway, or to the side of the house, or shall be located in the backyard. All basketball backboards shall be positioned so as not to constitute a nuisance or visual obstruction to adjacent homeowners.
 - h. All residential dwelling units shall be equipped with address numerals which conspicuously identify the address of the dwelling unit.
 - i. No swimming pool may extend more than one (1) foot above ground level. Pools must be in the rear of the home and must be located at least twenty (20) feet from the rear lot line. Hot tubs may be in the patio area near the home.
 - j. All yard areas shall be landscaped, sodded, or seeded, and maintained in a professional manner and in accordance with the approved landscaping plan. No plantings over ten (10) feet in height may be located within twenty (20) feet of the rear lot line or ten (10) feet of any side lot line.
 - k. No repair of any boat, automobile, motorcycle, truck, camper, all terrain vehicle, recreational vehicle or any other type of vehicle shall be permitted on any Lot outside of an approved structure, unless such repair is completed within a forty-eight (48) hour time period.
 - l. All firewood outside of a residential dwelling unit must be stacked neatly and screened from public view.
 - m. Produce or vegetable gardens may only be planted and maintained in rear yards.
 - n. During construction on any Lot in Property, the Owner of such Lot shall be responsible for controlling soil erosion.
 - o. Each member of the Association covenants to maintain their Lot and improvements in a neat and attractive manner. The Association, by and through its Board of Directors, may adopt from time to time minimum exterior maintenance standards applicable to all Lots within Property, not inconsistent with these Covenants.

ARTICLE VII.

EASEMENTS

A perpetual license and easement is hereby reserved in favor of Declarant and granted to any entity which has been granted a franchise to provide utilities, including cable television, to Property, or any portion thereof, to erect, operate, maintain, repair and replace said utilities on, through, under and across all areas on Property indicated as Easements. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in said easement areas 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.

ARTICLE VIII.**INSURANCE**

The Association may obtain and maintain such insurance for the Declarant, Association and/or officers of the Association as the Association deems necessary.

ARTICLE IX.**ACCESS**

Section 9.01. The Declarant, 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 construction, reconstruction, surveying, maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Declarant and Association is hereby granted a specific easement for such purposes.

ARTICLE X**RESERVED RIGHTS OF DECLARANT**

Nothing contained herein shall limit the Declarant's right to:

- a. Further subdivide adjacent property owned by Declarant into a residential subdivision;
- b. Grant licenses and reserve rights of way easements over any portion of Property;
- c. Complete excavation, grading and construction of improvements to and on any portion of property owned by Declarant;
- d. Alter its excavation, grading and construction plans and designs;
- e. Construct such additional improvements as Declarant deems advisable.

ARTICLE XI.

Section 11.01. In the event a Member fails to maintain a Lot according to these covenants or according to maintenance standards adopted by Declarant, the Declarant, through its agents, may, but shall not be required to, enter upon the Lot and take such action as is necessary to place the Lot in conformity with these covenants and applicable standards adopted by Declarant. Prior to entering a Lot to perform such maintenance, Declarant shall provide the member with written notice, which shall specify the required action and time in which it must be completed. If a member fails to comply and the Declarant performs such action, the Declarant may access the cost thereof against the Lot. When shown of record, such assessment shall be a lien upon the Lot and shall bear interest on per annum basis until paid at the rate of fourteen (14%) per cent per annum.

Section 11.02. The Declarant, 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 any provision of this Declaration. Failure of the Declarant, Association or of 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 11.03. The Declarant, Association, or any person entitled to enforce any of the terms hereof who obtains a judgment or decree in an action brought to enforce any of the provisions hereof, shall, to the extent permitted by law, be entitled to recover reasonable fees of attorneys and other professionals and all expenses incurred or anticipated to be incurred in enforcing these covenants or any other rules or regulations adopted by the Declarant or Association with regard to the Property.

Section 11.04. Neither the Declarant nor the Association shall be liable to any person for damages arising out of the enforcement or non-enforcement of these covenants. The failure to enforce any of the covenants shall not be deemed a waiver to the right to subsequently do so.

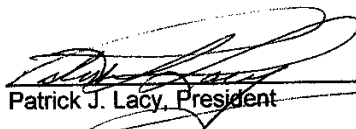
Section 11.05. Invalidation of any one or more of these covenants or restrictions, by judgment or Court order, shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

Section 11.06. These Declarations may be amended at any time during the initial twenty (20) year term hereafter by an instrument signed by the Owners of not less than eighty-five (85%) percent of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots then covered by these Declarations. Any such amendment shall be valid only upon its being recorded in the same manner as deeds shall be recorded at such time.

Section 11.07. These covenants and restrictions contained in this Declaration shall run with the land, and shall be binding for an initial term of twenty (20) years from the date these Declarations are recorded, after which time they shall be automatically extended for successive periods of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have executed these Declarations of Covenants Conditions and Restrictions this 10th day of October, 2008.

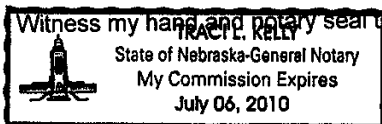
HP Real Estate Inc.

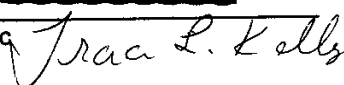

Patrick J. Lacy, President 10/09/08

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS.

Before me the undersigned, a notary public, personally came Patrick J. Lacy, personally known to me to be the Declarant, and President of HP Real Estate Inc. acknowledged the execution of the above to be their voluntary act and deed on behalf of HP Real Estate Inc.

Witness my hand and notary seal this 9th day of October, 2008.



Notary Public  10/09/08