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DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS  
FOR SOUTHPARK TOWNHOME, A PLANNED DEVELOPMENT

This Declaration, made on the date hereinafter set forth by Gloria Nadine Lohmann, formerly Gloria Nadine McKenzie, owner of the fee title, together with Henry J. Lohmann, her husband, and Richard T. Johnson and Irene O. Johnson, husband and wife, contract purchasers of the real property described hereinbelow, hereinafter collectively referred to as "Declarant":

WITNESSETH:

WHEREAS, Declarant is the owner/contract purchaser of the following described real property, to wit:

Government Lot 2 in Section 35, Township 13 North,  
Range 13 East of the 6th P.M. in Cass County, Nebraska

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said private streets, improvements, and other common facilities; and to this end, desires to subject the hereinabove described real property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant will convey the described real property, subject to certain protective covenants, conditions, restrictions, reservations, easements, liens and charges as

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REGISTER OF DEEDS, CASS CO., NEBR.

*Betty Chilpot*

COMPARED

hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each Owner thereof.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Declarant" shall mean and refer to Gloria Nadine Lohmann, formerly Gloria Nadine McKenzie, owner of the fee title, together with Henry J. Lohmann, her husband; or Richard T. John and Irene O. Johnson, husband and wife, contract purchasers whichever shall have the right to be in possession.

Section 2. "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of a fee simple title or a contract purchaser, whichever has legal right to possession of all of any party, parcel or portion of the above described real property, but excluding having such interest merely as security for the performance of an obligation.

Section 3. "Building Site" shall mean and refer to said building sites as defined on the plat of Southpark Townhome, a planned subdivision bearing surveyor's certificate dated the 2nd day of ~~March~~, 1985.  
April

ARTICLE II

BUILDING RESTRICTIONS

Section 1. Structures.

No structures, whether residences, accessory buildings, tennis courts, swimming pools, antennae, flag poles, fences, walls, driveways, patio, patio enclosure, house numbers, or any other such improvements, shall be constructed or maintained upon any building site, nor shall any grading or excavation be commenced unless complete plans, specifications, showing the exterior design, height, building material and color scheme thereof, the location of the structure platted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fences, walls, and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Declarant, and copies of such plans, specifications, and lot plans as finally approved, deposited with the Declarant.

Section 2. Guidelines and Restrictions. All exterior painting will be of a earthy color, and any repainting or changing of color, repainting of any living unit shall be consistent with the approved original plans and specifications

for the living unit and shall have the prior affirmative consent of the Declarant. The Declarant shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the properties conform to and harmonize with existing surroundings and structures.

ARTICLE III

COMMON SCHEME RESTRICTIONS

The following restrictions are imposed as a Common Scheme upon Building Sites, for the benefit of each Owner and may be enforced by any Owner of a Building Site or Declarant.

a. No Building Site shall be used for except for residential purposes.

b. No noxious or offensive activity shall be carried on upon any part of the property.

c. No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on any Building Site any time as a residence, either temporarily or permanently.

d. Dwellings shall not be moved from outside of Southpark Townhome to any Building Site within this addition.

e. No unused building material, junk or rubbish shall be left exposed except during

actual building operations on any Building Site. No repair of automobiles will be permitted outside of garages on any Building Site at any time.

f. No auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading or excavating equipment or other heavy machinery or equipment, vehicle undergoing repair, or aircraft shall be stored outside the garage of a living unit or in any manner left exposed on any Building Site at any time.

g. Except for the purposes of controlling erosion on vacant areas, no field crops shall be grown upon any area of the property at any time, however, family gardens are permitted.

h. No incinerator or trash burner shall be permitted on any Building Site unless the same is incorporated into the living unit and not exposed to view from outside of the living unit. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any living unit unless completely screened from view from every street and from all other areas in the planned development.

i. No garden, lawn or maintenance equipment

of any kind whatsoever shall be stored or permitted to remain outside of any living unit except when in actual use unless completely screened from any street and from other areas of the property. No garage door shall be permitted to remain open except when in entry to and exit from the garages are required. No clothesline shall be permitted outside of any living unit at any time. Any exterior air conditioning condensor unit shall be placed in the rear or side yard.

j. Motor vehicles shall be utilized on designated roadways only. The use of all terrain vehicles, motorcycles, dirt bikes and similar vehicles will not be allowed on any portion of the described properties.

k. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any building site, except that dogs, cats and other household pets maintained within the living unit may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided further, that the total number of dogs and cats kept within the living unit shall not exceed two (2).

l. No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on the properties, except that real estate for sale

or for rent signs of a size no greater than 4.5 square feet shall be permitted temporarily in the yards of the living units which are being offered for sale or rent.

m. Exposed portions of the foundation on the front of each living unit are to be covered with either siding or brick, and exposed portions of the foundations on the sides and rear of each living unit shall be covered with brick or siding or shall be painted.

n. All living units shall have indoor garage space for a minimum of two automobiles, and shall have driveway space for a minimum of two automobiles.

o. A living unit on which construction has begun must be completed within one year from the date the foundation was dug for said living unit.

#### ARTICLE IV

##### EASEMENTS

The above-described property is, and shall perpetually be, unless any are terminated, subject to all and each of the following easements for common use, construction, maintenance, support, repair, private and public sewer and utility line construction and services, and roadway easements.

Section 1. Utility Easement. Declarant hereby grants to themselves and to Nebraska Public Power District, Lincoln Telephone and Telegraph Company, Minnegasco, any Cass County

rural water district, and their respective assigns and successors, a perpetual easement, together with rights of egress and ingress and other access thereto for purposes of construction, installing, maintaining, operating, renewing, or repairing their respective private sewer, telephone, gas, water, electric, public sewer, or other utility conduits, lines or other facilities in and under the following described property,

A fractional part of the West Half of the Northeast Quarter (sometimes known as Government Lot 2), in Section 35, Township 13 North, Range 13 East of the 6th P.M., Cass County, Nebraska, more fully described as follows:

Referring to the Center Quarter corner of said Section 35, thence Running North 0 degrees 00" E, (assumed bearing along the West line of the Northeast Quarter), 274.0'; thence North 90 degrees E, 33.0', to the true point of beginning on the Easterly county road right-of-way line; thence North 0 degrees 00" E, (along said right-of-way), 40.97'; thence North 77 degrees 30' 27" E, 94.66'; thence N 87 degrees 33' 37" E, 158.32'; thence N 22 degrees 50' 28" W, 109.72'; thence N 19 degrees 40' 26" E, 70.0'; thence South 61 degrees 36' 38" E, 100.0'; thence S 79 degrees 36' 40" E, 117.38'; thence N 63 degrees 30' 22" E, 270.78'; thence S 7 degrees 25' 00" E, 454.57'; thence N 88 degrees 45' 42" W, 391.53'; thence N 22 degrees 50' 28" W, 199.50; thence S 87 degrees 33' 37" W, 169.68'; thence S 77 degrees 30' 27" W, 100.0', to the point of beginning containing 4.00 acres

and including each building site as confined to noninterference with any driveway, sidewalk or structural element of any approved or permitted living unit on any building site. While the utility easement granted herein is a blanket easement, the easement shall not, nor is it intended to interfere with the



orderly development of a building site, and the grantees of the above-described easement agree to use only so much of the easement as is necessary for their purposes in order to maximize the available area of each building site. The grantees of the above-described easement further agree that subsequent to the construction of their respective improvements on the properties, that they shall reduce said blanket utility easement to a specific metes and bounds easement, setting forth the actual amount of the properties used for such improvements, and all Owners hereby covenant and agree to cooperate with the reduction of the blanket utility easement to a specific metes and bounds utility easement. Each such grantee, by acceptance or use of this easement right, shall be deemed to agree to restore the surface of the soil excavated for the purposes hereunder to the original contour thereof as near as may be possible and to repair or replace the surface of any lawns, streets, parking areas or driveways which may have been disturbed for any purpose hereunder as near as may be possible to their original condition. Such restoration, repair or replacement shall be performed as soon as may be reasonably possible to do so.

Section 2. Roadway Easement. Declarant hereby reserves and grants to themselves, their successors and assigns, and to the Owners, their successors and assigns, a perpetual easement, together with rights of egress, ingress and other access thereto,

a roadway easement to the following described real property:

A roadway easement, beginning on the Easterly right-of-way line of a county road and running thence easterly through a 4.00 acre tract of land known as "South Park Townhome", located in the West Half of the Northeast Quarter, (Government Lot 2), Section 35, Township 11 North, Range 13 East of the 6th P.M., Cass County, Nebraska, more fully described as follows:

Referring to the Center Quarter corner of said Section 35; thence N 0 degrees 00" E, (assumed bearing along the West line of the Northeast Quarter), 274.0'; thence N 90 degree E, 33.0', to the true point of beginning on the Easterly county road right-of-way line; thence N 0 degrees 00" E, (along said right-of-way), 40.97'; thence N 77 degrees 30' 27" E, 94.66'; thence North 87 degrees 33' 37" E, 190.42', to a point of curvature; thence following the arc of a 268.55' radius curve to the right, 109.09' to a point of reverse curvature; thence following the arc of a 92.02' radius curve to the left, 46.39', to a point of tangency; thence N 81 degrees 57' 00" E, 93.00', to a point of curvature; thence following the arc of a 10' radius curve to the left, 15.71', to a point of tangency; thence N 8 degrees 03' 00" W, 137.09'; thence N 63 degrees 30' 22" E, 21.08'; thence S 8 degrees 03' 00" E, 380.62'; thence N 88 degrees 45' 42" W, 20.27'; thence N 8 degrees 03' 00" W, 130.00', to a point of curvature; thence following the arc of a 25' radius curve to the left, 33.60', to a point of tangency; thence N 85 degrees 03' 00" W, 40.00', to a point of curavture; thence following the arc of a 143.33' radius curve to the right, 68.66', to a point of reverse curvature; thence following the arc of 111.57' radius curve to the left, 67.83', to a point of tangency; thence S 87 degrees 33' 37" W, 261.54'; thence S 77 degrees 30' 27" W, 100.0' to the point of beginning.

Section 3. Telephone and Electric Power Service Lines. All telephone and electric power service lines from and to the living units shall be underground.

Section 4. Sanitary Sewer. Declarant hereby grants to themselves and its assigns a sanitary sewer system easement for

the placement and maintenance of a sanitary sewer system with the same being 5.0' either side of a line described as follows:

Referring to the Center Quarter corner of Section 35, Township 13 North, Range 13; thence N 0 degrees E, (assumed bearing), along the West line of the North-east Quarter, Section 35-13-13, 403.26'; thence N 90 degrees E, (perpendicular to said West line of North-east Quarter, Section 35), 661.15', to the true point of beginning; thence N 5 degrees 08' 53" W, 220.00'; thence N 50 degrees 08' 53" W, 290.00'; thence N 8 degrees 08' 53" W, 160.00'; thence N 50 degrees 08' 53" W, 320.00'; thence N 39 degrees 51' 07" E, 620.00', to the termination of said easement.

#### ARTICLE V

##### GENERAL PROVISIONS.

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Owners of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a period of ten years from the date hereof, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless more than fifty percent of the Owners agree in writing to terminate said covenants.

Section 2. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction herein.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration may be amended by written instrument signed by the owners of fee simple title of more than fifty percent in area of the real property subject to this declaration, as described herein. Written notice of any proposed amendment must be sent to all owners of record at least sixty (60) days but not more than ninety (90) days prior to such amendment being adopted. The notice must contain the full text of the proposed amendment and the date, including a time and place for hearing on the amendment. Any such amendment so adopted and executed must be properly recorded.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 28<sup>th</sup> day of MARCH, 1985.

Gloria Nadine Lohmann  
GLORIA NADINE LOHMANN

Richard T. Johnson  
RICHARD T. JOHNSON

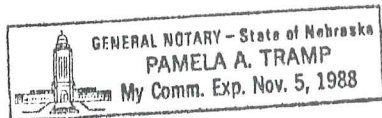
Henry J. Lohmann  
HENRY J. LOHMANN

Irene O. Johnson  
IRENE O. JOHNSON

STATE OF NEBRASKA )  
                          ) SS.  
COUNTY OF DOUGLAS )

On this 28th day of March, 1985, before me, a Notary Public duly commissioned and qualified in and for said County, personally came Gloria Nadine Lohmann and Henry J. Lohmann, wife and husband, to me known to be the identical persons who signed the foregoing instrument, and acknowledged the execution thereof to be their voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.



Pamela A. Tramp  
Notary Public

