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RELEASE AND TERMINATION OF STATUS AS DECLARANT AND ASSIGNMENT OF DECLARANT RIGHTS

Received - DIANE L. BATTIATO Register of Deeds, Douglas County, NE 7/6/2009 11:15:29.02



THIS RELEASE AND TERMINATION OF STATUS AS DECLARANT AND ASSIGNMENT OF DECLARANT RIGHTS ("Assignment") is made and entered into as of the 2nd day of July, 2009 (the "Effective Date"), by and between HORGAN DEVELOPMENT COMPANY, a Nebraska corporation ("Horgan"), and STONE CREEK TOWNHOMES ASSOCIATION, INC., a Nebraska not-for-profit corporation (the "Association").

RECITALS

WHEREAS, Horgan executed that certain Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Stone Creek, a Subdivision in Douglas County, Nebraska dated August 18, 2000, and recorded August 23, 2000, in Book 1349 at Page 89, in the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (the "Original Declaration") with respect to the following real estate:

Lots 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, 12A, 12B, 13A, 13B, 14A, 14B, 15A, 15B, 16A, 16B, 17A, 17B, 18A, and 18B, Stone Creek Replat 1, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (the "Townhome Lots").

and

Lots 628 through 634, inclusive, Stone Creek, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; 0J-37078

The above described lots are hereinafter collectively referred to as the "Lots"; and

WHEREAS, Horgan executed that certain Declaration of Covenants, Conditions and Restrictions dated August 21, 2000, and recorded October 3, 2000, in Book 1354 at Page 118, in the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (the "October 2000 Declaration") with respect to the Lots; and

After recording, please return to: John Q. Bachman PANSING HOGAN ERNST & BACHMAN LLP 10250 Regency Circle, Suite 300 Omaha, NE 68114

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WHEREAS, Horgan executed that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Stone Creek, a Subdivision in Douglas County, Nebraska dated September 25, 2001, and recorded September 28, 2000, in Book 1400 at Page 700, in the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (the "First Amendment") with respect to the Lots; and

WHEREAS, Horgan executed that certain Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for a Part of Stone Creek, a Subdivision in Douglas County, Nebraska dated August 18, 2004, and recorded August 19, 2004 as Instrument No. 2004110879, in the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (the "Second Amendment") with respect to the Lots; and

WHEREAS, the Original Declaration, the October 2000 Declaration, the First Amendment and the Second Amendment, and any other Declarations and amendments thereto, if any, affecting the Lots are hereinafter collectively referred to as the "Declaration"; and

WHEREAS, pursuant to the Declaration, Horgan, as Declarant under said Declaration, may terminate its rights and obligations of its status as Declarant under said Declaration; and

WHEREAS, Horgan (a) is still the holder of all the Declarant rights and obligations established in the Declaration; and (b) has not assigned, encumbered, transferred or terminated any of its rights or status as the Declarant (as defined in the Declaration) or obligations under the Declaration as of the Effective Date; and

WHEREAS, Horgan seeks to terminate its status as Declarant and seeks to assign to the Association, all of its rights and obligations as Declarant under the Declaration, including, but not limited to, all easement rights, responsibilities and obligations created in the Declaration; and

WHEREAS, Association desires to accept such assignment and appoint itself to serve as Declarant under the Declaration with respect solely to the Lots.

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Association and Horgan agree as follows:

1. Termination as Declarant/Assignment of Declarant Rights. Horgan hereby terminates its status as the Declarant with respect solely to the Lots and hereby assigns to the Association all of its rights, obligations and responsibilities as Declarant under the Declaration with respect solely to the Lots.

2. Representations of Horgan. Horgan hereby represents and warrants to the Association that (a) it has not terminated its status as Declarant or assigned or encumbered any of its rights or responsibilities as the Declarant under the Declaration; (b) it has the authority to terminate its status as the Declarant and assign all of its rights and responsibilities under the

terms and conditions set forth in the Declaration to the Association; and (c) there has been no written or verbal modification to the Declaration as of the Effective Date.

3. The Association's Assumption. The Association hereby appoints itself as the Declarant with respect solely to the Lots and acknowledges the assignment of all of Declarant's rights, responsibilities and obligations under the Declaration with respect solely to the Lots, and agrees to assume all rights, responsibilities and obligations as created in said Declaration with respect solely to the Lots.

4. Governing Law. This Assignment shall be construed in accordance with and governed by the laws of the State of Nebraska.

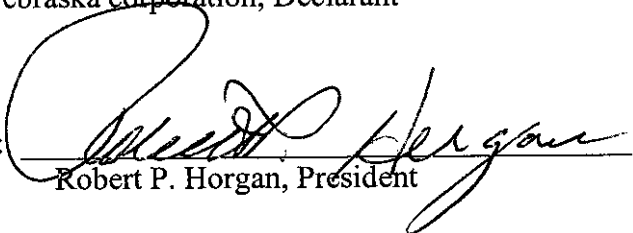
5. Effective Date. This Assignment shall become effective on the date provided above as the Effective Date.

6. Incorporation of Recitals. All of the Recitals set forth in this Assignment so labeled are incorporated into and made a part of this Assignment.

7. Defined Terms. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Declaration.

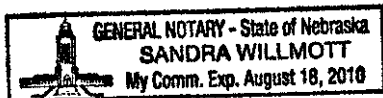
IN WITNESS WHEREOF, the parties hereto have executed this Assignment on the dates of the acknowledgments set forth below to be effective as of the Effective Date.

HORGAN DEVELOPMENT COMPANY,  
a Nebraska corporation, Declarant

By:   
Robert P. Horgan, President

STATE OF NEBRASKA    )  
  ) :ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of June, 2009, by Robert P. Horgan, President of Horgan Development Company, a Nebraska corporation, on behalf of the corporation.



  
Notary Public

**ACCEPTANCE OF ASSIGNMENT**

The undersigned, STONE CREEK TOWNHOMES ASSOCIATION, INC., a Nebraska not-for-profit corporation, hereby accepts the Assignment of Declarant Rights.

Dated this 2 day of July, 2009.

STONE CREEK TOWNHOMES ASSOCIATION,  
INC., a Nebraska not-for-profit corporation

By: Bob Stock  
Bob Stock, President

STATE OF NEBRASKA    )  
  ) :ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 2 day of July, 2009, by Bob Stock, President of Stone Creek Townhomes Association, Inc., a Nebraska not-for-profit corporation, on behalf of the corporation.



[Signature]  
Notary Public