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GEORGE J. DUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

BLOCK 1021 PAGE 718

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the party or parties hereto who are, at the close of this instrument, described as "Declarant",

W I T N E S S E T H:

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

Lots 1 through 28, inclusive, and Outlot A of The Enclave, a Subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded;

WHEREAS, Declarant desires to make all of the above described property subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the property hereinabove described 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, all of said real property and shall be binding on all parties having any right, title or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Enclave Townhome Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

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Section 2. "Owner" shall mean and refer to:

- (a) 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, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, 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 the Seller retains title solely as security for the performance of the purchasers obligation under the contract.

Section 3. "Properties" shall mean and refer to:

Lots 1 through 28, inclusive, and Outlot A of The Enclave, a Subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded,

together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any platted Lot (other than the Common Area) shown upon any recorded subdivision map of the Properties or one of two parcels resulting from a Lot split of a duplex zoned Lot.

Section 5. "Improved Lot" shall mean and refer to any Lot included within the Properties, upon which shall be erected a dwelling, the construction of which shall be at least 80% completed, according to the plans and specifications for construction of said dwelling. All other Lots, which shall be vacant or upon which shall be erected a dwelling, the construction of which shall be less than 80% completed, according to the plans and specifications for construction of said dwelling, shall be defined as "Unimproved Lots".

Section 6. "Assessable Lot" shall mean and refer to any Improved Lot which has 100% of the exterior construction completed and is owned by someone other than Declarant.

Section 7. "Declarant" shall mean and refer to all persons and entities signing this instrument.

Section 8. "Common Area" shall mean and refer to Outlot A of The Enclave, a subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded.

Section 2. "Common Area Improvements" shall mean and refer to (i) any improvement, including but not limited to signs, paving, curbs, landscaping, lighting standards, roadways, common storm drains, utility lines, sewers and other service facilities, located from time to time on the Common Area and (ii) any perimeter fencing on the Properties and any signage which serves all of the Lots.

ARTICLE II
PROPERTY RIGHTS

Section 1. 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 by any such Owner, or members of such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

Section 2. Parking Rights. Ownership of any Lot shall entitle the Owner or Owners thereof to such parking rights as shall be available upon such Lot.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner is empowered to enforce the covenants. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

Section 2. In order to ensure that a quorum is present for all meetings of the members, and to allow for orderly management of the Association's affairs, it shall be the duty of each member to attend such meetings or execute and deliver to the Association a continuing proxy prepared by the Association. This continuing proxy shall operate in lieu of the actual attendance at the meeting by the specific member and shall be void if the member personally attends that meeting to exercise the member's right to vote. A Lot Owner may provide a superseding proxy to be voted by his duly authorized attorney in fact for one specific meeting only. The proxy shall be subject to the terms of the Nebraska Nonprofit Corporation Act concerning revocability and life span of the proxy. Failure to attend personally or by proxy is a violation of this covenant.

The continuing proxy shall be voted by the President of the Association in his or her discretion at any meeting. It is noted that Nebraska law requires that members holding 1/10th of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The continuing proxy shall provide on its face that it is valid on a continuous basis for an indefinite period of time until revoked in writing by the specific Lot Owner.

All proxies shall be in writing and filed with the Secretary of the Association. Each proxy shall be freely revocable and shall automatically cease when the member giving such proxy shall cease to be an Owner of a Lot or at such earlier time as shall be specified in the proxy or by operation of law.

Section 3. The Association shall have two classes of voting members, Class A Members and Class B Members, defined as follows:

CLASS A: Class A Members shall be all Owners, with the exception of the Declarant, Apollo Building Corp. Each Class A Member shall be entitled to one vote for each Lot owned. 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; 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.

CLASS B. Class B Members shall be Apollo Building Corp. which shall be entitled to three votes for each Lot owned and not under a current contract of sale or title transferred. The Class B membership shall terminate and be converted into Class A membership (with Apollo Building Corp. voting for each Lot owned by the Declarant) 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) January 1, 1995.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Assessable Lot and for each Owner (other than Declarant) of any Assessable Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract, that it is, and shall be, deemed to covenant and agree to pay to the Association:

- (1) Special assessments for capital improvements, and
- (2) Monthly assessments for exterior maintenance and other operational expenses with respect to each Improved Lot as deemed necessary by the Association, and
- (3) Common Area maintenance assessments for repair, maintenance and other operational expenses with respect to the Common Area Improvements as deemed necessary by the Association,

as such assessments shall be established and collected as hereinafter provided. The special assessments, monthly assessments, and Common Area maintenance 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 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 property 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 them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents in the Properties and for exterior maintenance, Common Area maintenance, and other matters as more fully set out in Articles V and VI herein.

Section 3. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot any monthly maintenance assessment for the purpose of meeting the requirements of Section 1 of Article V herein for exterior maintenance.

Section 4. Special Assessment for Capital Improvements. The Association may levy special assessments from time to time against an Assessable Lot for the purpose of meeting the requirements of Section 2 of Article V herein for the costs of any construction, reconstruction, repair or replacement of any capital improvements on such Lot, including fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

Section 5. Common Area Maintenance Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot any Common Area maintenance assessment for the purpose of meeting the requirements of Article VI herein for repair, maintenance and other operational expenses with respect to the Common Area Improvements; provided, however, Declarant shall pay such Common Area maintenance assessments in full until fifty percent (50%) or more of the Lots are Improved Lots.

Section 6. Notice and Quorum for Any Action Authorized Under Section 1. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3, 4, or 5 of this Article IV shall be sent to all Members not less than 10 days nor more than 50 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 one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meeting shall be held within 60 days following the preceding meeting.

Section 7. Rate of Assessment. The monthly assessments and Common Area maintenance assessments shall be paid prorata by the Owners of all Assessable Lots based upon the total number of Assessable Lots. The monthly assessments and Common Area maintenance assessments may be collected on a monthly or other periodic basis by the Association. The Board of Directors of the Association shall fix the amount of the monthly or other periodic assessments against each Assessable Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Assessable Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvements occurs. 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 all assessments on a specified Assessable Lot have been paid. A properly executed certificate of the Association as to the status of assessments, on a particular Assessable Lot shall be binding upon the Association as of the date of its issue by the Association.

Section 8. Effect of Nonpayment of Assessment; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal rate allowable by law in the State of Nebraska, which at the time of the execution of these Declarations, is sixteen (16) percent per annum. 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 or title transfer of such Owner's Lot.

Section 9. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, 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. 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, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

ARTICLE V
EXTERIOR MAINTENANCE

The Association may provide exterior maintenance upon each Improved Lot which is subject to monthly and special assessments as set forth hereinafter.

Section 1. Monthly assessments may be assessed for, but not limited to, the following:

- (a) Maintenance of trees and shrubs, lawns, and other exterior landscaping improvements as originally installed by the builder, except such improvements as may be within the confines of any fenced in area on any Improved Lot or installed by or at the direction of the Owner, which improvements shall be the responsibility of the Owner. The Owner understands that the original landscape as installed by the builder is warranted for a period of one year from the time of planting. The Owner is responsible for replacement of all dead landscaping improvements after the one year warranty period expires and the Owner agrees to allow the Association to replace such dead landscape improvements at the expense of the Owner of record at the time of replacement and the Owner shall reimburse the Association on demand. The Association shall have no duty to repair, replace or maintain any exterior concrete surfaces.
- (b) Operation and maintenance of an underground watering system.
- (c) Snow removal as to be determined by the guidelines set forth by the Board of Directors.
- (d) Optional exterior window cleaning as deemed necessary by the Board of Directors.

Section 2. Special assessments may be assessed for, but not limited to, the following:

- (a) Maintain, repair, and replace roofs.
- (b) Maintain, repair, including painting, of all exterior walls, with the exception that the Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to, window glass and door glass. The Association shall not assume the duty to repair or replace any doors, door openers, and cooling units for air conditions systems. However, the Association shall assume the duty to paint the exterior surfaces of exterior doors.
- (c) Maintain, repair, and replace gutters.

ARTICLE VI
MAINTENANCE OF COMMON AREA IMPROVEMENTS

The Association may from time to time repair, maintain, and operate the Common Area Improvements, which maintenance may include, but not be limited to, the following:

- (a) Maintaining the surface of the roadways on the Common Area in a level, smooth, and evenly covered condition;
- (b) Snow removal as to be determined by the guidelines set forth by the Board of Directors;
- (c) Placing, keeping in repair, and replacing any necessary or appropriate directional signs, markers and lines;
- (d) Repairing and replacing when necessary such artificial lighting facilities;
- (e) Maintaining and repairing any and all common storm drains, utility lines, sewers and other service facilities which are necessary for the operation of the dwellings on the Properties (common storm drains, utility lines, sewers and other service facilities are those which serve all of the Lots);
- (f) Maintaining all common fences including those on the perimeter of the Properties;
- (g) Payment of all electrical, water, and other utility charges or fees for services furnished to the Common Area;
- (h) Payment of all real property taxes and other special taxes and assessments assessed against the Common Area or the Common Area Improvements; and

- (1) Payment of all premiums for general public liability insurance insuring against claims for personal injury, death or property damage occurring in, upon or about the Common Area.

As provided in Article IV herein, the Board of Directors may levy and assess Common Area maintenance assessments against each Assessable Lot for the costs and expenses of the repair, maintenance and operations of the Common Area Improvements as provided in this Article VI.

ARTICLE VII ARCHITECTURAL CONTROL

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made, nor shall any trees, shrubs, or plantings be planted or maintained upon the Properties, until the plans and specifications therefor, 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. Failure of the Board to act on such plans as submitted within 30 days after the date of submission shall be deemed to be approval of such plans, and the Owner may proceed in accordance with such plans and specifications.

ARTICLE VIII PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as part of the original construction of any dwelling upon the Properties, 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. Sharing of Repair and Maintenance. 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. Destruction by Fire or Other Casualty. 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 or Owners shall thereafter make use of such party wall, such other Owner or Owners shall contribute to the cost of restoration thereof

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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. Weatherproofing. 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. Right to Contribution Runs With Land. 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.

Section 6. Arbitration. 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 IX

GENERAL RESTRICTIONS AND OTHER PROVISIONS

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

- (a) No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on any Lot within the Properties, unless such fences or enclosures shall have first been authorized in writing by the Association. No clothes line or clothes hanger shall be constructed on any Lot or used on any Lot outside of a building located thereon. No exterior television or radio antenna shall be erected on any Lot within the Properties; provided however, that with the written approval of the Association, one or more master television antenna towers may be erected for the benefit and use of all or part of the Owners of the Properties.
- (b) No animals, livestock or poultry of any kind shall be raised or kept on any Lot in the Properties, other than non-exotic household pets, which shall be limited to one (1) per household. All pets shall be leashed when outside of the residential structure and patio area. No such pet shall be kept, bred or maintained for commercial purposes. No animals, livestock or poultry of any kind

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shall be raised or kept on any Lot in the Properties, other than household pets, which shall be limited to one (1) per household and which a household pet shall not exceed twenty pounds (20) in weight. All pets shall be leashed when outside the residential structure and patio area. No pets however, shall be kept, bred, or maintained for commercial purposes. All reptiles are classified as exotic pets. All unpleasantries created by the household pet shall be the responsibility of the Owner, and he shall be obligated to clean up after the animal.

- (c) No noxious, offensive, or illegal activity shall be carried on 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. No outside above-ground trash receptacles or incinerators shall be permitted on any Lot.
- (d) No advertising signs or billboards shall be permitted on any Lot with the exception of "for sale" or "for rent" signs, which shall not exceed four square feet in size. Nothing herein contained shall prevent the use of any Lot by the Declarant, its agents, and the Association as a sales and rental office, or as a model home or both, and while any Lot is so used, they shall have the right, for themselves, or their nominees, to place signs on the premises advertising such office or model home, or both.
- (e) No trailer, tent, shack, barn or other outbuilding shall at any time be used for human habitation, either temporarily or permanently. This shall not prevent the location of a temporary real estate and/or construction office on any Lot in the Properties for use during the period of construction and sale of the Properties.
- (f) The use of private barbecue grills and the outside use or storage of barbecue grills on any Lot may be subject to written regulation, restriction or exclusion by the Association.
- (g) No awnings or sun screens of any type shall be affixed to any building or structure on any Lot without the written consent of the Association.

ARTICLE X
INSURANCE

Section 1. The Association shall purchase and provide physical property coverage insurance with respect to the improvements (residential and related structures) in an amount equal to at least ninety percent (90%) of the full replacement value of the original improvements against losses by fire, lightning, wind storm and other perils covered by standard extended coverage endorsements. The full replacement value of the original improvements is defined as the base price of the original structure excluding, but not limited to, custom finished basements and any other improvements over the base original price. Insurance premiums are assessed uniformly based upon the base price of the original structures. Betterments done to the original structure and additional custom improvements shall not be covered by the Association's policy. The intent is to provide only coverage based only upon the basic purchase price excluding any custom betterments.

The Association shall also purchase and provide comprehensive general liability coverage insurance against any other hazards and in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association, in addition to the foregoing, shall provide Directors and Officers liability coverage insurance for the Association, for its Officers, and members of the Board of Directors. Finally, if the Association has any employees of any nature, the Association shall purchase and provide Worker's Compensation Insurance for all employees who may come within the scope of Nebraska Worker's Compensation laws.

The above insurance shall not cover the personal property of any Owner of any Lot, it being the Owner's responsibility to provide such insurance coverage for the Owner's protection. In addition, the Association may purchase such additional insurance against other hazards which may be deemed appropriate by the Board of Directors.

Section 2. The Association is hereby irrevocably appointed as agent for each Owner of each and every Lot in the Properties and for the holder of any Mortgage on any Lot in the Properties, to adjust any and all claims arising under insurance policies purchased by the Association on the improvements on the Properties, and to execute and deliver releases upon payment of claims without joinder by any such Owner or mortgagee. All insurance proceeds shall be applied by the Association toward repairing the damage covered by such insurance, provided that reconstruction or repair shall not be compulsory where the damage exceeds two-thirds (2/3) of the value of all the buildings and improvements on all of the Lots covered by such insurance.

The deductible portion of the applicable master insurance policy shall be borne equally by those Lots which have suffered the

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loss. Should the Owners so elect not to rebuild, the insurance proceeds, along with the insurance indemnity, if any, shall be credited to each Owner in accordance with such Owner's pro rata share of the loss as sustained from the casualty for which the proceeds shall be payable. Such sums shall be first applied towards satisfaction of any recorded first mortgage, first deed of trust, initial purchase money security device against such Lots, next applied towards satisfaction of junior recorded liens in order of their priority, next toward the cost of razing the improvements or any remnants thereof from said Properties, and the filling and leveling of any of said Lots, as needed, and the remainder shall then be paid to such Owner of such razed properties on a pro rata basis.

In case the insurance proceeds do not equal the cost of repairs or rebuilding, the excess cost shall be considered a maintenance expense to be assessed and collected by the Association from the Owner of the damaged improvements. In any cases of over insurance, any excess proceeds of insurance received shall be credited towards the working fund of the Association.

Section 3. Each Lot Owner may obtain such additional insurance for the individual Owner's benefit and at such Owner's own expense as may be deemed necessary by the Lot Owner, including coverage for specific improvements and betterments in the Owner's unit, personal liability, specific personal property items, the ten percent (10%) co-insurance provision of the full replacement cost of the base price of the original structure, and any exclusions of insurance coverage from the master policy provided by the Association.

ARTICLE XI 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 XII EASEMENTS

Section 1. Ingress and Egress. There hereby is reserved in favor of the Owners and their tenants, agents, and invitees, and the agents and invitees of such tenants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the Common Area Improvements existing from time to time on the Properties, including but not limited to roadways, entrances, and exits and other service facilities located in, upon or under the Common Area, subject to such reasonable and uniformly

applied rules and regulations as the Board of Directors may establish from time to time with respect to such use.

Section 2. Utility Lines. There hereby is reserved in favor of and granted to the Owners non-exclusive easements under, through and across the Common Area for water drainage systems, water mains, sewers, water sprinkler system lines, telephone and electrical conduits or systems, gas mains, other public utilities and service easements, which reservation shall include the right of an Owner to reasonably join in the use of any such existing systems, structures, mains, sewers, conduits, lines, and other public utilities and service facilities. The grantee of such easement shall bear all costs related to the use of the easement and shall repair to the original specifications any damage to the Common Area resulting from such use, provided the costs of maintaining and repairing common storm drains, utility lines, sewers and other service facilities are expenses in accordance with Article VI.

ARTICLE XIII
UTILITY METERS AND SERVICE LINES

In order to facilitate the installation, operation, maintenance and repair of an underground watering system, such Lots as shall be designated from time to time by the Association shall have a dual metering system for water so as to permit the drawing of water for watering of the lawns, shrubs, trees and other vegetation located upon the Lots. It is understood that the amount of water metered for the residential use on any such Lot shall be paid for by the Owner of each Lot receiving water.

ARTICLE XIV
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 of the 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 2. Severability. 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 3. Amendment. These Declarations may be amended at any time during the initial twenty (20) year term referred to in Section 4, hereafter, by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots then

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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 4. Term. 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 Declarant herein, have executed these Declarations of Covenants, Conditions and Restrictions this 8th day of JUNE, 1992.

APOLLO BUILDING CORP.

By: Terrence J. Ficenec
Terrence J. Ficenec, President

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

Before me the undersigned, a notary public, personally came Terrence J. Ficenec, to me personally known to be the President of Apollo Building Corp., a Nebraska corporation, and that he acknowledged the execution of the above to be his voluntary act and deed as President and that the execution of this document was duly authorized by the Board of Directors as the voluntary act and deed of such corporation.

WITNESS my hand and notarial seal this 8 day of June, 1992.



Patricia S. Devaney
Notary Public

My Commission Expires:

7-5-93

NOTARY PUBLIC
STATE OF NEBRASKA
PATRICIA S. DEVANEY
41120 3M, 1993



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 GEORGE A. BUSLEY, JR.
 REGISTER OF DEEDS
 DOUGLAS COUNTY, NE

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FIRST AMENDMENT TO DECLARATION OF COVENANTS,
 CONDITIONS AND RESTRICTIONS

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Amendment") is made as of the 16 day of October, 1992, by Apollo Building Corp., a Nebraska corporation referred to herein as the "Declarant".

RECITALS:

A. Declarant executed that certain Declaration of Covenants, Conditions and Restrictions dated June 8, 1992 (the "Declaration") and recorded the Declaration in Book 1021 at Page 718 of the Miscellaneous Records of the Office of the Register of Deeds of Douglas County, Nebraska. The Declaration covered Lots 1 through 28, inclusive, and Outlot A of The Enclave, a Subdivision located in Douglas County, Nebraska.

B. The Declarant has replatted the property subject to the Declaration into Lots 1 through 39, inclusive, and Outlot A of The Enclave Replat I, a Subdivision located in Douglas County, Nebraska.

C. The Declarant desires to amend the Declaration for the purpose of recognizing the replat of the property subject to the Declaration and to provide of record that the Declaration is to remain in force against the property as replatted.

D. The Declarant further desires to amend the Declaration to provide an easement for sidewalks within the property subject to the Declaration.

E. Section 3 of ARTICLE XIV of the Declaration provides that the Declaration may be amended by an instrument signed by the owners of not less than ninety percent (90%) of the Lots (as defined in the Declaration) subject to the Declaration. Declarant presently is the owner of all of the Lots subject to the Declaration.

PLEASE RETURN TO:
 RCF\13177.1 Abrahams, Kaslow & Cassman
 8712 W. Dodge Rd. #300
 Omaha, NE 68114
 Attention: RCF

NOW, THEREFORE, the Declaration is amended in the following particulars:

1. The definition of "Properties" set forth in Section 3 of ARTICLE I of the Declaration hereby is amended in its entirety to read as follows:

"Properties" shall mean and refer to:

Lots 1 through 39, inclusive, and Outlot A of The Enclave Replat I, a Subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded, the same being a replat of Lots 1 through 28, inclusive, and Outlot A of The Enclave;

together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association."

2. ARTICLE XII of the Declaration hereby is amended by adding thereto a new Section 3 as follows:

"Section 3. Sidewalks. Each Owner of an Improved Lot shall, at its expense, construct, repair and maintain a sidewalk on such Lot adjacent to the Common Area. Such sidewalk shall satisfy the specifications for sidewalks within the City of Omaha, shall be located within ten (10) feet of the Common Area as designed by the Declarant, and shall be in place prior to completion of the building improvements on such Lot. If an Owner fails to construct, repair, or maintain such sidewalk, the Association may, but shall not be required to, provide for such construction, repair, or maintenance, and the cost to the Association for such construction, repair, or maintenance shall be specially assessed against such Lot the same as special assessments for capital improvements as provided in ARTICLE IV herein. There hereby is reserved in favor of the Owners and their tenants, agents, and invitees, and the agents and invitees of such tenants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the sidewalks existing from time to time within ten (10) feet of the Common Area. There hereby is further reserved in favor of the Association, its agents and contractors, the right to enter upon each Lot from time to time for the purpose of constructing, repairing and maintaining the sidewalks in the event the Owner fails to provide for such construction, repair, or maintenance as provided in this Section 3."

3. This Amendment shall be effective as of the date of this Amendment.

4. Except as provided for in this Amendment, all other provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the day and year first above written.

APOLLO BUILDING CORP., a Nebraska corporation

By: *Terrence J. Ficenec*
Terrence J. Ficenec, President

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on October 16, 1992, by Terrence J. Ficenec, President of Apollo Building Corp., a Nebraska corporation, on behalf of such corporation.

Patricia S. Devaney
Notary Public

My Commission Expires:

7-5-93





BK 1510 PG 569-577



MISC 2003 13694

RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

2003 APR 16 AM 10:49

RECEIVED

The Enclave Townhome Association, Inc.

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

Ammended December 2001

MISC
FEE 6500 FB 59-11257
BKP _____ C/O _____ COM *mm*
DEL _____ SCAN *OK* *rv*

Bk - 1021 - Page 718

Bk - 1047 Page 287

RETURN: Jacqueline McLellan
13030 Irving Plz
Omaha, NE 68154

2816

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THESE DECLARATIONS, made on this date shown on the close of this instrument, by the party or parties hereto who are, at the close of this instrument, described as "Declarant".

WITNESSETH

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

Lots 1 through 39 inclusive, and Outlot A of the Enclave, ^{Replat 1} a Subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded;

WHEREAS, Declarant, desires to make all of the above described property subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the property hereinabove described 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, all of said real property and shall be binding on all parties having any right, titles or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Enclave Townhome Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to:

- (a) 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, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, 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 the Seller retains title solely as security for of the purchasers obligation under the contract.

Section 3. "Properties" shall mean and refer to:

Lots 1 through 39, inclusive, and Outlot A of The Enclave, ^{Replat 1} a Subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded, together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any platted Lot (other than the Common Area) shown upon any recorded subdivision map of the Properties or one of two parcels resulting from a Lot split of a duplex zoned Lot.

Section 5. "Improved Lot" shall mean and refer to any Lot included within the Properties, upon which shall be erected a dwelling, the construction of which shall be at least 80% completed, according to the plans and specifications for construction of said dwelling. All other Lots, which shall be vacant or upon which shall be erected a dwelling, the construction of which shall be less than 80% completed, according to the plans and specifications for construction of said dwelling, shall be deemed as "Unimproved Lots."

Section 6. "Assessable Lot" shall mean and refer to any Improved Lot which has a 100% of the exterior construction completed and is owned by someone other than Declarant.

Section 7. "Declarant" shall mean and refer to all persons and entities signing this instrument.

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Section 8. "Common Area" shall mean and refer to Outlot A of the Enclave, a subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded.

Section 9. "Common Area Improvements" shall mean and refer to (i) any improvement, including but not limited to signs, paving, curbs, landscaping, lighting standards, roadways, common storm drains, utility lines, sewers and other service facilities, located from time to time on the Common Area and (ii) any perimeter fencing on the Properties and any signage which serves all of the Lots.

ARTICLE II

PROPERTY RIGHTS

Section 1. 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 by such Owner, or members of such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

Section 2. Parking Rights Ownership of any Lot shall entitle the Owner or Owners thereof to such parking rights as shall be available upon such Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner is empowered to enforce the covenants. Membership shall be appurtenant to and shall not be separate from ownership of any Lot which is subject to any assessment.

Section 2. In order to ensure that a quorum is present for all meetings of the members, and to allow for orderly management of the Association's affairs, it shall be the duty of each member to attend such meetings for execute and deliver to the Association a continuing proxy prepared by the Association. This continuing proxy shall operate in lieu of the actual attendance at the meeting by the specific member and shall be void if the member personally attends that meeting to exercise the member's right to vote. A Lot Owner may provide a superseding proxy to be voted by his duly authorized attorney in fact for one specific meeting only. The proxy shall be subject to the terms of the Nebraska Nonprofit Corporation Act concerning revocability and life span of the proxy. Failure to attend personally or by proxy is a violation of this covenant.

The continuing proxy shall be voted by the President of the Association in his or her discretion at and meeting. It is noted that Nebraska law requires that members holding 1/10th of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The continuing proxy shall provide on its face that it valid on a continuous basis for an indefinite period of time until revoked in writing by the specific Lot Owner.

All proxies shall be in writing and filed with the Secretary of the Association. Each proxy shall be freely revocable and shall automatically cease when the member giving such proxy shall cease to be an Owner of a Lot or at such earlier time as shall be specified in the proxy or by operation of law.

Section 3. The Association shall have two classes of voting members, Class A members and Class B members, defined as follows:

CLASS A: Class A Members shall be all Owners, with the exception of the Declarant, Apollo Building Corp. Each Class A Member shall be entitled to one vote for each Lot owned. When there is more than one person or entity holding an interest in any Lot, all such persons or entities or both, shall be Members; 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.

CLASS B: Class B Members shall be Apollo Building Corp. which shall be entitled to three votes for each Lot owned and not under a current contract of sale or title transferred. The Class B membership shall terminate and be converted into converted to Class A membership (with Apollo Building Corp. voting for each Lot owned by the Declarant) 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) January 1, 1995.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Assessable Lot and for each Owner (other than Declarant) of any Assessable Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract, that it is, and shall be, deemed to covenant and agree to pay to the Association:

- (1) Special assessments for capital improvements, and
- (2) Monthly assessments for exterior maintenance and other operational expenses with respect to each Improved Lots as deemed necessary by the Association, and
- (3) Common area maintenance assessments for repair, maintenance and other operational expenses with respect to the Common Area Improvements as deemed necessary by the Association, as such assessments shall be established and collected hereinafter provided. The special assessments, monthly assessments, and Common Area maintenance 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 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 property 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 them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote health, safety, recreation and welfare of the residents in the Properties and for exterior maintenance, Common Area maintenance, and other matters as more fully set out in Articles V and VI herein.

Section 3. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot any monthly maintenance assessment for the purpose of meeting the requirements of Section 1 of Article V herein for exterior maintenance.

Section 4. Special Assessments for Capital Improvements. The Association may levy special assessments from time to time against an Assessable Lot for the purpose of meeting the requirements of Section 2 of Article V herein for the costs of any construction, reconstruction, repair or replacement of any capital improvements on such Lot, including fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

Section 5. Common Area Maintenance Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot any Common Area maintenance assessments for the purpose of meeting the requirements of Article VI herein for repair, maintenance and other operational expenses with respect to the Common Area Improvements; provided, however, Declarant shall pay such Common Area maintenance assessments in full until fifty percent (50%) or more of the Lots are Improved Lots.

Section 6. Notice and Quorum for Any Action Authorized Under Section 1. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3, 4, or 5 of this Article IV shall be sent to all members not less than 10 days nor more than 50 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 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 one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meeting shall be held within 60 days following the preceding meeting.

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Section 7. Rate of Assessment. The monthly assessments and Common Area maintenance assessments shall be paid prorata by the Owners of all Assessable Lots based upon the total number of Assessable Lots. The monthly assessments and Common Area maintenance assessments may be collected on a monthly or other periodic basis by the Association. The Board of Directors of the Association shall fix the amount of the monthly or other periodic assessments against each Assessable Lot. Written notice of the assessment shall be sent to every owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Assessable Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvement occurs. 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 all assessments on a specified Assessable Lot have been paid. A properly executed certificate of the Association as to the status of assessments, on a particular Assessable Lot shall be binding upon the Association as of the date of its issue by the Association.

Section 8. Effect of Nonpayment of Assessment; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal rate allowable by law in the State of Nebraska, which at the time of the execution of these Declarations is sixteen (16) percent per annum. Should any assessment remain unpaid for 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 or title transfer of such Owner's Lot.

Section 9. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, 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. 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, first deed of trust, or other initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

ARTICLE V

EXTERIOR MAINTENANCE

The Association may provide exterior maintenance upon each Improved Lot which is subject to monthly and special assessments as set forth hereinafter.

Section 1. Monthly assessments may be assessed for, but not limited to, the following:

- (a) Maintenance of trees and shrubs, lawns and other exterior landscaping improvements as originally installed by the builder, except such improvements as may be within the confines of any fenced in area on any Improved Lot or installed by or at the direction of the Owner, which improvements shall be the responsibility of the Owner. The Owner understand that the original landscape as installed by the builder is warranted for a period of one year from, the time of planting. The Owner is responsible for replacement of all dead landscaping improvements after the one year warranty period expires and the Owner agrees to allow the Association to replace such dead landscape improvements at the expense of the Owner of record at the time of replacement and the Owner shall reimburse the Association on demand. The Association shall have no duty to repair, replace or maintain any exterior concrete surfaces.
- (b) Operation and maintenance of an underground watering system.
- (c) Snow removal as to be determined by the guidelines set forth by the Board of Directors.

- (d) Optional exterior window cleaning as deemed necessary by the Board of Directors.

Section 2. Special assessments may be assessed for, but not limited to, the following:

- (a) Maintain, repair and replace roofs.
- (b) Maintain, repair, including painting, of all exterior walls, with the exception that the Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to, window glass and door glass. The Association shall not assume the duty to repair and replace any doors, door openers, and cooling units for air conditions systems.
- (c) Maintain, repair and replace gutters.

ARTICLE VI **MAINTENANCE OF COMMON AREA IMPROVEMENTS**

The Association may from time to time, maintain, and operate the Common Area Improvements, which maintenance may include, but not be limited to, the following:

- (a) Maintaining the surface of the roadways on the Common Area in a level, smooth, and evenly covered condition;
- (b) Snow removal as to be determined by the guidelines set forth by the Board of Directors;
- (c) Placing, keeping in repair, and replacing any necessary or appropriate directional signs, markers and lines;
- (d) Repairing and replacing when necessary such artificial lighting facilities;
- (e) Maintaining and repairing any and all common storm drains, utility lines, sewers and other service facilities which are necessary for the operation of the dwellings on the Properties (common storm drains, utility lines, sewers and other service facilities are those which serve all of the Lots);
- (f) Maintaining all common fences including those on the perimeter of the Properties;
- (g) Payment of all electrical, water, and other utility charges or fees for services furnished to the Common Area;
- (h) Payment of all real property taxes and other special taxes and assessments assessed against the Common Area or the Common Area Improvements; and
- (i) Payment of all premiums for general public liability insurance insuring against claims for personal injury, death or property damage occurring in, upon or about the Common Area.

As provided in Article IV herein, the Board of Directors may levy and assess Common Area maintenance assessments against each Assessable Lot for the costs and expenses of the repair, maintenance and operations of the Common Area Improvements as provided in this Article VI.

ARTICLE VII **ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made, nor shall any trees, shrubs or plantings be planted or maintained upon the Properties, until the plans and specifications therefor, showing the nature, kind, shape, height, materials color and location of the same shall be 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, and shrubs, plantings, by the Board of Directors of the Association. Failure of the Owner to submit plans to any of the

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above changes, including paint color, will result with the Property being returned to its original state at the cost of the owner, and/or the owner will be charged an additional assessment, determined by the Board of Directors, for the additional costs for mowing due to landscaping additions, etc. Failure of the Board to act on such plans as submitted within 30 days after the date of submission shall be deemed to be approval of such plans, and the Owners may proceed in accordance with such plans and specifications.

ARTICLE VIII

GENERAL RESTRICTIONS AND OTHER PROVISIONS

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

- (a) No fences or enclosures of any type or nature whatsoever shall be constructed, erected, placed or maintained on any Lot within the Properties, unless such fences or enclosures shall have first been authorized in writing by the Association. No clothes lines or clothes hanger shall be constructed on any Lot or used on any Lot outside of a building located thereon. No exterior television or radio antenna shall be erected on any Lot within the Properties; provided however, that with the written approval of the Association, one or more master television antenna towers may be erected for the benefit and use of all or part of the Owners of the Properties.
- (b) No animals, livestock or poultry of any kind shall be raised or kept on any Lot in the Properties, other than non-exotic household pets, which shall be limited to one (1) per household and not exceed twenty pound (20) in weight. All pets shall be leashed when outside the residential structure and patio area. No such pet shall be kept, bred or maintained for commercial purposes. All reptiles are classified as exotic pets. All unpleasanties created by the household pet shall be the responsibility of the Owner, and he shall be obligated to clean up after the animal. Upon violation, Owners will be fined \$50.00 per violation. After three (3) violations, the Owner will receive notice that violation has been reported to the local authorities and further legal action will be taken.
- (c) No noxious, offensive, or illegal activity shall be carried on 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. No outside above-ground trash receptacles or incinerators shall be permitted on any Lot.
- (d) The use of private barbecue grills and the outside use or storage of barbecue grills on any Lot may be subject to written regulation, restriction or exclusion by the Association.
- (e) No awnings or sun screens of any type shall be affixed to any building or structure on any Lot without the written consent of the Association.
- (f) No townhome owner/resident may use his/her Enclave residence as a rooming house, commercial multi-family dwelling, group home and/or for multiple foster child care.

ARTICLE IX

INSURANCE

Section 1. The Association shall purchase and provide physical property coverage insurance with respect to the improvements (residential structures and related structures) in the amount of full replacement value against losses by fire, lightning, windstorm and other perils covered by standard coverage endorsements. Insurance premiums are assessed uniformly based upon the base price of the original structure and adjusted for appreciation of said structure.

The Association shall also purchase and provide comprehensive general liability coverage insurance against any other hazards and in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association, in addition to the foregoing, shall provide Directors and Officers liability coverage

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insurance for the Association, for its Officers, and members of the Board of Directors. Finally, if the Association has any employees of any nature, the Association shall purchase and provide Worker's Compensation Insurance for all employees who may come within the scope of Nebraska Worker Compensation laws.

The above insurance shall not cover personal property of any Owner of any Lot, it being the Owner's responsibility to provide such insurance coverage for the Owner's protection. In addition, the Association may purchase such additional insurance against other hazards which may be deemed appropriate by the to Board of Directors.

Section 2. The Association is hereby irrevocably appointed as agent for each Owner of each and every Lot in the Properties and for the holder of any Mortgage on any Lot in the Properties, to adjust any and all claims arising under insurance policies purchased by the Association on the improvements on the Properties, and to execute and deliver releases upon payment of claims without joinder by any such Owner or mortgagee. All insurance proceeds shall be applied by the Association toward repairing the damage covered by such insurance, provided that reconstruction or repair shall not be compulsory where the damage exceeds two-thirds (2/3) of the value of all the buildings and improvements on all of the Lots covered by such insurance.

The deductible portion of the applicable master insurance policy shall be borne equally by those Lots, which have suffered the loss. Should the Owners so elect not to rebuild, the insurance proceeds, along with the insurance indemnity, if any, shall be credited to each Owner in accordance with such Owner's pro rata share of the loss as sustained from the casualty for which the proceeds shall be payable. Such sums shall be first applied towards satisfaction of any recorded first mortgage, first deed of trust, initial purchase money security device against such Lots, next applied towards satisfaction of junior record liens in order of their priority, next toward the cost of razing the improvements or any remnants thereof from said Properties, and the filling and leveling of any said lots, as needed, and the remainder shall then be paid to such Owner of such razed properties on a pro rata basis.

In case the insurance proceeds do not equal the cost of repairs or rebuilding, the excess cost shall be considered a maintenance expense to be assessed and collected by the Association from the Owner of the damaged improvements. In any cases of over insurance, any excess proceeds of insurance received shall be credited towards the working fund of the Association.

Section 3. Each Lot Owner may obtain additional insurance to cover specific improvements and betterments in the Owner's unit, personal liability, specific personal property items, the difference between provision of the full replacement cost of the base unit price plus appreciation as insured in the master Association policy and actual replacement costs, and any exclusion of insurance coverage from master policy provided by the Association.

ARTICLE X.

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 duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

ARTICLE XI

EASEMENTS

Section 1. Ingress and Egress. There hereby is reserved in favor of the Owners and their tenants, agents, and invitees, and the agents and invitees of such tenants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the Common Area Improvements existing from time to time on the Properties, including but not limited to roadways, entrances, and exits and other service facilities located in, upon or under the Common Area, subject to such reasonable and uniformly applied rules and regulations as the Board of Directors may establish from time to time with respect to such use.

Section 2. Utility Lines. There hereby is reserved in favor of and granted to the Owners non-exclusive easements under, through and across the Common Area for water drainage systems, water mains, sewers, water sprinkle system lines, telephone and electrical conduits or systems, gas mains, other public utilities and service easements, which reservation shall include the right of the Owner to reasonably join in the use of any such existing systems, structures, mains, sewers, conduits, lines, and other public utilities and service facilities. The grantee of

such easement shall bear all costs related to the use of the easement and shall repair to the original specifications any damage to the Common Area resulting from such use, provided the costs of maintaining and repairing common storm drains, utility lines, sewers and other service facilities are expenses in accordance with Article VI.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by an 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 of the 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 2. Severability. 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 3. Amendment. These Declarations may be amended at any time by an instrument signed by the Owners of not less than two thirds (2/3) 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 4. Term. 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 period of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed these Declarations of Covenants, Conditions and Restrictions this 7th day of April, 2008

THE ENCLAVE TOWNHOME ASSOCIATION, INC.

By: George Rood
George Rood, President

Amended December 2001

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS.

Before me the undersigned, a notary public, personally came George Rood, to me personally known to be the President of The Enclave Townhome Association, Inc., a Nebraska corporation, and that he acknowledged the execution of the above to be his voluntary act and deed as President and that the execution of this document was duly authorized by the Board of Directors as the voluntary act and deed of such corporation.

WITNESS my hand and notarial seal this 17th day of April, 2009

Notary Public

My Commission Expires

4-24-2004

