

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant",

W I T N E S S E T H:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 1 through 15, inclusive,  
Lots 217 through 282, inclusive, and  
Lots 340 through 395, inclusive,  
of Tiburon, a Subdivision, as surveyed, platted  
and recorded in Sarpy County, Nebraska, and

WHEREAS, all of the above-described real estate has been zoned "RS-100" and, therefore, is available for single family use,

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots 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 lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to 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, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, and Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, or Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

ARTICLE II.  
ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

- 1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.
- 2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other facades and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings shall be located at least twenty-five (25') feet from the front Lot line, and a minimum of twenty-five (25') feet from the rear property line. All buildings shall have at least ten (10') foot sideyards. On corner lots, either street side may be designated by the Owner/Builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is twenty-five (25') feet from the property line. For purposes of this restriction, eaves, open patios, and steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. In the event that the zoning requirements for a Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. In the event that a fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, said fireplace and/or the enclosure for the fireplace flue shall be constructed of or finished with, clay-fired brick or stone. In the event that a fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the fireplace and/or enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

G. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the the dwelling. On Lots Adjoining Golf Course, no fence may be built within thirty-five (35") feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

I. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

J. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to

interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

L. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

M. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

N. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

O. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

P. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Q. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

R. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

S. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

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T. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

U. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

V. All driveways shall be constructed of concrete or brick.

W. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

X. No television antenna, no antenna of any kind or nature, no satellite dish, no solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assign, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

#### ARTICLE V. GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by 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.

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B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 14th day of JANUARY, 1993.

DECLARANT:


TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA )  
                          ) SS.  
COUNTY OF DOUGLAS )

On this 14th day of January, 1993, before me the undersigned, a Notary Public in and for said County and State, personally came Eric B. Waddington, known to me to be the President of Drella, Inc., a Nebraska Corporation, and acknowledged that he executed as the willful act and deed of such corporation.

 GENERAL NOTARY STATE OF NEBRASKA  
BARBARA M. HAMMOND  
My Comm. Exp. April 11, 1996

Barbara M. Hammond  
Notary Public

tibcoven  
1/13/93

FILED SARPY CO. REC  
INSTRUMENT NUMBER  
93-001002

93 JAN 15 PM 3:50

Carol A. Gavin  
REGISTER OF DEEDS

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COUNTER ah C.E. ah  
VERIFY ah D.E. ah  
PROOF P  
FEES \$ 508.00  
CHECK # 13583  
CHG \_\_\_\_\_ CASH \_\_\_\_\_  
REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_

FILED SARPY COUNTY NEBRASKA  
INSTRUMENT NUMBER

2018-01127

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*Floyd J. Dowling*

REGISTER OF DEEDS



AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR TIBURON IN SARPY COUNTY, NEBRASKA

This Amendment to the Declaration of Covenants, Conditions and Restrictions For Tiburon made on the date herein after set forth by the undersigned, hereinafter referred to as "Declarants" is made to amend the Declaration of Covenants, Conditions and Restrictions, For Tiburon made on January 15, 1993 and recorded as Instrument No. 93-001002, Register of Deeds, Sarpy County, Nebraska.

RECITALS

WHEREAS, the above stated covenants covered Lot 1 through Lot 15 inclusive, Lots 217 through Lot 282, inclusive, and Lots 340 through 395, inclusive all in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, Lots 3 and 4, Tiburon were subsequently replatted as Lot 1, Tiburon Replat 11, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, Lots 242 and 243, Tiburon were subsequently replatted as Lots 1 and , Tiburon Replat 9, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, Lots 255, 256 and 257, Tiburon were subsequently replatted as Lots 1 and 2, Replat 12, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, the Declarants, pursuant to Article V Section B of the Declaration of Covenants, Conditions and Restrictions For Tiburon, now desire to amend the above stated covenants to extend the duration of the Declaration.

NOW THEREFORE, the Declarants hereby amend Article V. Paragraph B of the Declaration of Covenants, Conditions and Restrictions For Tiburon as follows:

1. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time

Record & Return to: Adams & Sullivan, P.C., L.L.O., 1246 Golden Gate Drive, Suite 1, Papillion, NE 68046



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they shall be automatically extended for successive periods of ten (10) years. The Declaration may be amended by an instrument signed by not less than ninety (90%) percent of the Lots covered by this Declaration.

2. All other terms of said covenants shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date herein.

Dated this 12<sup>th</sup> day of January 2018.

\_\_\_\_\_  
Patrick J. Corrigan, Jr., Lot 1

\_\_\_\_\_  
Kaitlin J. Corrigan, Lot 1

STATE OF NEBRASKA )  
  )     ss.  
COUNTY OF SARPY     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_ by Patrick J. Corrigan, Jr. and Kaitlin J. Corrigan, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal at \_\_\_\_\_, Nebraska, on the day last above written.

\_\_\_\_\_  
Notary Public

2. All other terms of said covenants shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date herein.

Dated this 9<sup>th</sup> day of January 2018.

[Signature]  
Tiburon, Lot 1

[Signature]  
Tiburon, Lot 1

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF SARPY )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of January, 2018 by Patrick - Kaitlin Corrigan known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal at Omaha, Nebraska, on the day last above written.



[Signature]  
Notary Public

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REC'D

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NJ  
17.00

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant",

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 16 through 66, inclusive, and  
Lots 194 through 216, inclusive,  
of Tiburon, a Subdivision, as surveyed, platted  
and recorded in Sarpy County, Nebraska, and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots 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 lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to 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, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 16 through 66, inclusive, and Lots 194 through 216, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 16 through 66, inclusive, or Lots 194 through 216, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

**ARTICLE II.**  
**ARCHITECTURAL CONTROL**

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

**ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS**

**A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.**

**B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:**

**1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:**

**a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.**

**b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.**

**2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:**

**a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.**

**b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.**

**3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.**

**4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.**

**C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eve of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.**

**D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.**

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vent at a ninety degree angle directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

G. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within thirty-five (35') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

I. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

J. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

L. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

M. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

N. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

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O. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

P. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Q. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

R. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

S. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

T. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

U. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

V. All driveways shall be constructed of concrete or brick.

W. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

X. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary



lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

**ARTICLE V.**  
**GENERAL PROVISIONS**

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by 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.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 26 day of October, 1994.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

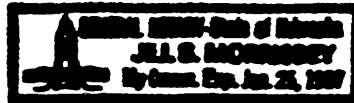
By: Eric B. Waddington  
Eric B. Waddington, President

94-23087G

STATE OF NEBRASKA )  
  ) ss.  
COUNTY OF DOUGLAS )

On this 26 day of October, 1994, before me the undersigned, a Notary Public in and for said County and State, personally came Eric B. Waddington, known to me to be the President of Drella, Inc., a Nebraska Corporation, and acknowledged that he executed as the willful act and deed of such corporation.

Jill A. Macomber  
Notary Public



COUNTER LM C.E. LM  
VERIFY LM D.E. LM  
PROOF LM  
FEES \$ 244.00  
CHECK # 14676  
CHG \_\_\_\_\_ CASH \_\_\_\_\_  
REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_

FILED SARPY COUNTY NEBRASKA  
INSTRUMENT NUMBER

2019-24136

10/04/2019 3:36:41 PM

  
COUNTY CLERK/REGISTER OF DEEDS



### AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TIBURON IN SARPY COUNTY, NEBRASKA

This Amendment to the Declaration of Covenants, Conditions and Restrictions For Tiburon made on the date herein after set forth by the undersigned, hereinafter referred to as "Declarants" is made to amend the Declaration of Covenants, Conditions and Restrictions, For Tiburon made on October 26, 1994 and recorded as Instrument No. 94-23087, Register of Deeds, Sarpy County, Nebraska.

#### RECITALS

WHEREAS, the above stated covenants covered Lot 16 through Lot 66 inclusive, Lots 194 through Lot 216, inclusive, all in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, the Declarants, pursuant to Article V Section B of the Declaration of Covenants, Conditions and Restrictions For Tiburon, now desire to amend the above stated covenants to extend the duration of the Declaration.

NOW THEREFORE, the Declarants hereby amend Article V. Paragraph B of the Declaration of Covenants, Conditions and Restrictions For Tiburon as follows:

1. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Declaration may be amended by an instrument signed by not less than ninety (90%) percent of the Lots covered by this Declaration.

2. All other terms of said covenants shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date herein.

Dated this 25<sup>th</sup> day of September 2019.

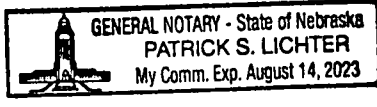
Record & Return to: Adams & Sullivan, P.C., L.L.O., 1246 Golden Gate Drive, Suite 1, Papillion, NE 68046

Brian Lancaster  
Brian Lancaster, Lot 16

STATE OF NEBRASKA    )  
                                  )  
                                  )        ss.  
COUNTY OF SARPY     )

The foregoing instrument was acknowledged before me this 24 day of August 2019 by Brian Lancaster, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal at Omaha, Nebraska, on the day last above written.



Patrick S. Lichter  
Notary Public

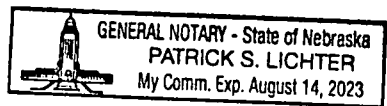
Michael J. Cuevas, Sr.  
Michael J. Cuevas, Sr., Lot 17

Bernardine M. Wachholtz  
Bernardine M. Wachholtz, Lot 17

STATE OF NEBRASKA    )  
                                  )  
                                  )        ss.  
COUNTY OF SARPY     )

The foregoing instrument was acknowledged before me this 15 day of ~~August~~<sup>sept</sup> 2019 by Michael J. Cuevas, Sr. and Bernardine M. Wachholtz, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be his/her/their voluntary act and deed for the purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal at Omaha, Nebraska, on the day last above written.



Patrick S. Lichter  
Notary Public

FILED SARPY CO. NE.  
ASSIGNMENT NUMBER  
08-000444  
08 JAN -7 PM 3:10  
REGISTER OF DEEDS

98-00444  
County: WJ  
City: at  
C.E. W  
Proof: W 50  
Fee: 15  
Ck   
Cash   
Charge

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners";

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 77 and 286, in Tiburon, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots 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 lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to 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,

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including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

## ARTICLE II.

### ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

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the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

### ARTICLE III. RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

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4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or



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finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

98-00444E

any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

98-00444F

T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

98-004446

ARTICLE V.  
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by 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.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.


IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

Date: 1-5-98

By:   
Eric B. Waddington, President

OTHER PROPERTY OWNERS:

Owner of Lot 286:

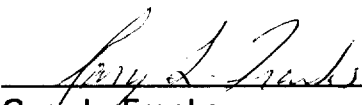
SWN INVESTMENTS,  
a Nebraska partnership

Date: 1-7-98

By: 

Owner of Lot 77:

Date: 1-5-97

  
Gary L. Franks

48-00444 H

CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403

By: Omaha Firefighters CU  
Tiffany M Michel  
Director of Lending

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

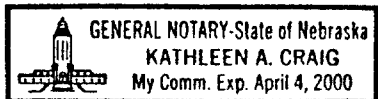
The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Omaha Firefighters Credit Union  
By Tiffany M Michel, Director of Lending.



Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.

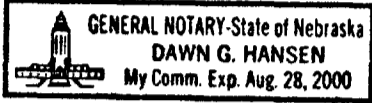


Kristina L. Efird  
Notary Public

98-00444I

STATE OF NEBRASKA )  
COUNTY OF General ) ss.

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SWN Investments  
Lee H. Sapp GP



Dawn G. Hansen  
Notary Public

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2003 44764

2003 AUG 11 P 3:48 PM

*Lloyd J. Dowding*  
REGISTER OF DEEDS

Counter *SM SM*  
Verify *[Signature]*  
D.E. *[Signature]*  
Proof *[Signature]*  
Fee \$ 61.00  
Ck  Cash  Chg   
509



**THIS PAGE ADDED  
FOR RECORDING  
INFORMATION.**

**DOCUMENT STARTS ON  
NEXT PAGE.**

**LLOYD J. DOWDING**

SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE, STE 1109  
PAPILLION, NE 68046-2895  
402-593-5773

*R.R.  
Infinity Homes  
PO Box 27976  
Ralston, NE  
68127*

44764

A

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATIONS, made on the date hereinafter set forth, by Cobblestone Homes, Inc., a Nebraska Corporation, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the Owner of certain property in Sarpy County, Nebraska, which is more particularly described as:

Lots 107 through 159, inclusive, Tiburon, a Sub-division in  
Sarpy County, Nebraska, as surveyed, platted and recorded.

All of the above-described property has been zoned "RS-100" and, therefore, is available for single family detached homes.

NOW THEREFORE, Declarant and the Other Property Owners hereby declare that all of the properties described above 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 the real property and be binding on all parties having any right, title or interest in the described 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. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the members of the Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to 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, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as many hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Cobblestone Homes, Inc., its successors, assigns and legal representatives.

Section 6. "Architectural Control Builder" shall mean the individual or committee appointed by the Declarant.

ARTICLE II

Section 1. Architectural Control

(1) Before the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of



B

external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, hereinafter referred to as the "Board" or by an architectural committee, hereinafter referred to as "Committee" composed of three (3) or more representatives appointed by the Builder. In the event the Board, or the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

(2) After the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials 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 by the Board and/or the Committee.

(3) Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvements may be required of the applicant at the discretion of the Board and/or Committee. Submittals for approval shall be made in duplicate and the comments and actions of the Board and/or Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Board and/or Committee. Each applicant shall submit to the Board and/or Committee the following documents, materials and/or drawings:

- (a) Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks; and
- (b) Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

**Section 2. Restrictions for Residential Units**

(1) Residences built on Lots shall comply with the following minimum size requirements:

- (a) Each one story residence shall contain no less than 1,400 square feet of living area above the basement level and exclusive of garage area; and
- (b) Each one and one-half or two story residence shall contain no less than 1,800 square feet of total living area above the basement level with a minimum of 1,000 square feet on the main level, exclusive of garage area.

(2) Other residence styles not described above in this Section will be permitted only if approved by the Board and/or Committee and shall not be approved unless they are compatible with other residences to be built on the Property in the opinion of the Board and/or Committee in its sole and absolute discretion.

(3) All residences shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the residence. Other or additional garages may be permitted at the discretion of the Board and/or Committee.

(4) For the purposes of these restrictions, two story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

C  
(5) All buildings shall be located at least twenty-five feet (25') from the front Lot line, and a minimum of twenty-five feet (25') from the rear property line. All buildings shall have at least eight foot (8') side yards. On corner Lots, either street side may be designated by the owner/builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is fifteen feet (15') from the property line. For the purposes of this restriction, eaves, open patios, steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. In the extent that the zoning requirements for Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for a Lot or Lots is granted by the appropriate authority, the Board and/or Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Board and/or Committee.

(6) Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner Lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted. Fifty percent (50%) brick or stone does not include any door, window or garage door areas.

(7) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any of said Lots, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwelling or log houses shall be constructed or erected on any of said Lots. No dwelling shall be moved from outside of the Properties onto any of said Lots.

(8) No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with Heritage 30 weather wood color roofing, except Lots 107, 125, 126 and 159 shall be wood shake roof.

(9) Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupance thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of Sarpy County and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

(10) The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

### ARTICLE III

#### GENERAL RESTRICTIONS

Section 1. Awnings. No awnings or sun screens of any type shall be affixed to any building or structure within the properties without the written consent of the Board.

Section 2. Building or Uses Other Than for Residential Purposes. No building or structure of any sort may ever be placed, erected or used for business, professions, trade or commercial purposes on any of the property within the Properties. Provided, however, the prohibition shall not apply:

- (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties; or
- (b) To any portion of a building used by Declarant, its licensees or assigns, for a manager's office or a sales office, or by the Association for its offices.

D

**Section 3. Fences, etc.** No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on or about any building site within the Properties, except metal, PVC or wood fences approved by the Board in writing. No truck, trailer, boat, motor home, camper equipment or machinery or cars not in daily use shall ever be parked, located or otherwise maintained on any Properties. Automobiles shall be parked only in designated parking areas as published by the Association in its Rules and Regulations. No external television or radio antenna or satellite dish shall hereafter be erected on or about any of the building sites or property within the Properties. No clothesline or clothes hangers shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

**Section 4. Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio areas and provision made that they are kept confined to the Lot of their Owner and are not permitted to run loose outside the Lot of the Owner. No such pet will be kept, bred or maintained for commercial purposes.

**Section 5. Noxious Activity.** No noxious or offensive activity shall be carried on the Properties, nor shall any trash, ashes or other refuse be thrown, placed, dumped upon any vacant building site, nor shall anything ever be done which may be, or may become, an annoyance or nuisance to the neighborhood.

**Section 6. Billboards Prohibited.** 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 any lot except that real estate "For Sale" or "For Rent" signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent or other builder promotional signs.

**Section 7. Outbuildings Prohibited.** No outbuildings or other attached or unattached structures appurtenant to a residence may be erected on any of the building sites hereby restricted.

**Section 8. Temporary Structure.** No trailer, basement, tent, shack, trailer, garage, barn or other outbuilding, whether any time as a residence. PROVIDED, however, nothing contained herein shall restrict Declarant or its assigns for locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes and rental and lease purposes and may operate such office or offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

**Section 9.** All garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Association. Private barbecue grills will be subject to regulation, restriction or exclusion by the Association. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Association.

**Section 10.** No automobile, motor home, camper or vehicle repair will be permitted outside of garages on any Lot at any time. No automobiles in a state of disrepair shall be kept on the premises of any Lot or be permitted to park on the streets for a period in excess of three (3) days.

**Section 11.** Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

**Section 12.** A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

**Section 13.** Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Board and/or Committee.

E

Section 14. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Board and/or Committee.

Section 15. All driveways shall be constructed of concrete or brick.

Section 16. The front, side and rear yards of all Lots shall be sodded, and one (1) tree, each not less than one (1) caliper inch in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

#### ARTICLE IV.

##### EASEMENTS AND LICENSES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company and to Omaha Public Power District, their successors and assigns, to erect and operate, maintain, repair, and renew cables, conduits and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary Lot lines, and an eight foot (8') wide strip of land adjoining the rear boundary lines of all Lots. Said licenses being granted for the use and benefit of all present and future owners of said Lots; PROVIDED, however, that said easements are granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said Lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without being replaced within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed on perpetual easement ways, but the same may be used for garden shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Section 2. All telephone and electric power services lines from property line to dwelling shall be underground.

#### ARTICLE V

##### GENERAL PROVISIONS

Section 1. Enforcement. The Board, 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 by the Board or by 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 of these covenants or restrictions by judgement or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of four (4) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded with the Register of Deeds in and for Sarpy County, Nebraska. Declarant canchange anything within the first five (5) years.

2003-44764 F

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 11 day of July, 2003.

August 23  
DECLARANT:

COBBLESTONE HOMES, INC.  
A Nebraska Sub-S Corporation

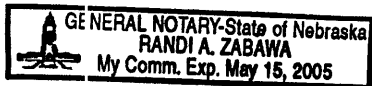
[Signature]  
WILLIAM J. TORCZON, President  
Cobblestone Homes, Inc.  
Corporation

STATE OF NEBRASKA )

COUNTY OF SARPY )

The foregoing instrument was acknowledged before me this 11 day of August, July, 2003  
by William J. Torczon, President, Cobblestone Homes, Inc.

[Signature]  
Notary Public



FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2003-64942  
2003 NOV -4 P 12:53

*Lloyd J. Dowding*  
REGISTER OF DEEDS

COUNTER Sm C.E. Sm  
VERIFY Sm D.E. Sm  
PROOF Sm  
FEES \$ 66.50  
CHECK# \_\_\_\_\_  
CHG \_\_\_\_\_ CASH 68.50  
REFUND 2.00 CREDIT \_\_\_\_\_  
SHORT \_\_\_\_\_ NCR \_\_\_\_\_



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FOR RECORDING  
INFORMATION.**

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NEXT PAGE.**

**LLOYD J. DOWDING**

SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE, STE 1109  
PAPILLION, NE 68046-2895  
402-593-5773

*Ret: Fulvencamp Doyle & Johnson*

64942

A

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, on August 11, 2003, a set of Covenants were filed in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument Number 2003 44764 which purportedly covered the following described property in Sarpy County, Nebraska:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded

WHEREAS, said Covenants were invalid because they were signed by Cobblestone Homes, Inc., a Nebraska Sub-S Corporation, which represented that it was the owner of the lots supposedly covered by the Covenants,

WHEREAS, said Cobblestone Homes, Inc. only had an option to purchase the lots covered by the Covenants and the true owner of the lots covered by the Covenants was the Tiburon Limited Partnership, a Nebraska Limited Partnership,

WHEREAS, the Tiburon Limited Partnership, as the true owner of the lots to be covered by these Covenants, wishes to correct said error by signing the following Corrected Declaration of Covenants, Conditions and Restrictions for Tiburon, and

WHEREAS, The Declarant, Tiburon Limited Partnership, is the Owner of the following described real property:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded.

All of the above-described property has been zoned "RS-100" and, therefore, is available for single family detached homes.

NOW THEREFORE, Declarant hereby declares that all of the properties described shall be held 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 the real property and be binding on all parties having any right, title or interest in the described 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. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the members of the Association, its successors and assigns.

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Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title or to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as many hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Tiburon Limited Partnership, a Nebraska Limited Partnership, its successors, assigns and legal representatives.

Section 6. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant.

## ARTICLE II

### Section 1. Architectural Control.

- (1) Before the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials 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 by an architectural committee, hereinafter referred to as "Committee" composed of one (1) or more representatives appointed by the Declarant. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.
- (2) After the construction of the original structure on each Lot, 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 until the plans and specifications showing the nature, kind, shape, height, materials 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 by the Committee.
- (3) Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvements may be required of the applicant at the discretion of Committee. Submittals for approval shall be made in duplicate and the comments and actions of the Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Committee the following documents and/or drawings:
  - (a) Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks; and



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- (b) Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

Section 2. Restrictions for Residential Units.

- (1) Residences built on Lots shall comply with the following minimum size requirements:
  - (a) Each one story residence shall contain no less than 1,400 square feet of living area above the basement level and exclusive of garage area except Lots 107, 125, 126 and 157. These lots shall contain no less than 1600 square feet of living area above the basement level; and
  - (b) Each one and one-half of two story residence shall contain no less than 1,800 square feet of total living area above the basement level with a minimum of 1,000 square feet on the main level, exclusive of garage area.
- (2) Other residence styles not described above in this Section will be permitted only if approved by the Committee and shall not be approved unless they are compatible with other residences to be built on the Property in the opinion of the Committee in its sole and absolute discretion.
- (3) All residences shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain minimum area of 400 square feet built at appropriately the main level of the residence. Other or additional garages may be permitted at the discretion of the Committee.
- (4) For the purposes of these restrictions, two story heights shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.
- (5) All buildings shall be located at least twenty-five feet (25') from the front Lot line, and a minimum of twenty-five feet from the rear property line. All buildings shall have at least eight foot (8') side yards. On corner Lots, either street side may be designated by the owner/builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is fifteen feet (15') from the property line. For the purposes of this restriction, eaves, open patios, steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. To the extent that the zoning requirements for Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for Lot or Lots is granted by the appropriate authority, the Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Committee.

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- (6) Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner Lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.. Fifty percent (50%) brick or stone does not include any door, window or garage door areas.
- (7) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any of said Lots, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwelling oblong houses shall be constructed or erected on any of said Lots. No dwelling shall be moved from outside of the Properties onto any of said Lots.
- (8) No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with Heritage 30 weather wood color roofing, except Lots 107, 125, 126, and 159 shall be wood shake roof.
- (9) Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of Sarpy County and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.
- (10) The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

### ARTICLE III

#### GENERAL RESTRICTIONS

Section 1. Awnings. No awnings or sun screens of any type shall be affixed to any building or structure within the properties without the written consent of the Board.

Section 2. Buildings or Uses Other Than for Residential Purposes. No building or structure of any sort may ever be placed, erected or used for business, professions, trade or commercial purposes on any of the property within the Properties. Provided, however, the prohibition shall not apply:

- (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties; or
- (b) To any portion of a building used by Declarant, its licensees or assigns, for a manager's office, or by the Association for its offices.

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Section 3. Fences, etc. No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on or about any building site within the Properties, except metal, PVC or wood fences approved by the Committee in writing. No truck, trailer, boat, motor home, camper equipment or machinery or cars not in daily use shall ever be parked, located or otherwise maintained on any Properties. Automobiles shall be parked only in designated parking areas as published by the Association in its Rules and Regulations. No external television or radio antenna or satellite dish shall hereafter be erected on or about any of the building sites or property within the Properties. No clothesline or clothes hangers shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

Section 4. Livestock and Poultry Prohibited. No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio areas and provision made that they are kept confined to the Lot of their Owner and are not permitted to run loose outside the Lot of the Owner. No such pet will be kept, bred, or maintained for commercial purposes.

Section 5. Noxious Activity. No noxious or offensive activity shall be carried on the Properties, nor shall any trash, ashes or other refuse be thrown, placed, dumped upon any vacant building site, nor shall anything ever be done which may be, or may become, an annoyance or nuisance to the neighborhood.

Section 6. Billboards Prohibited. 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 any lot except that real estate "For Sale" or "For Rent" signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent or other builder promotional signs.

Section 7. Outbuildings Prohibited. No outbuildings or other attached or unattached structures appurtenant to a residence may be erected on any of the building sites hereby restricted.

Section 8. Temporary Structure. No trailer, basement, tent, shack, trailer, garage, barn or other outbuilding, whether any time as a residence. PROVIDED, however, nothing contained herein shall restrict Declarant or its assigns for locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes and rental and lease purposes and may operate such office and offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

Section 9. All garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Association. Private barbecue grills will be subject to regulation, restriction or exclusion by the Association. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Association.

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Section 10. No automobile, motor home, camper or vehicle repair will be permitted outside of garages on any Lot at any time. No automobiles in a state of disrepair shall be kept on the premises of any Lot or be permitted to park on the streets for a period in excess of three (3) days.

Section 11. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Section 12. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

Section 13. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Committee.

Section 14. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Committee.

Section 15. All driveways shall be constructed of concrete or brick.

Section 16. The front, side and rear yards of all Lots shall be sodded, and one (1) tree, each not less than one (1) caliper inch in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

#### ARTICLE IV

##### EASEMENTS AND LICENSES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to Qwest Telephone Company and to Omaha Public Power District, and their successors and assigns, to erect and operate, maintain, repair, and renew cables, conduits and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary Lot lines, and an eight foot (8') wide strip of land adjoining the rear boundary lines of all Lots. Said licenses being granted for the use and benefit of all present and future owners of said Lots; PROVIDED, however, that said easements are granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said Lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without being replaced within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed on perpetual easement ways, but the same may be used for garden shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Section 2. All telephone and electric power service lines from property line to dwelling shall be underground.

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ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, 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 by the Declarant or by 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 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 3. Amendment. The covenant and restrictions of this Declaration shall run with and bind the land, for a term of four (4) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of Lot Owners. Any amendment must be recorded with the Register of Deeds in and for Sarpy County, Nebraska. Declarant can change anything within the first five (5) years.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 10 day of October 2003

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA        )  
COUNTY OF SARPY        )

The foregoing instrument was acknowledged before me this 10 day of October 2003 by Eric B. Waddington, President, Drella, Inc.

Sandra S. Smith  
Notary Public

