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By

RICHARD N TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF BRIAR HILLS, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA

THIS DECLARATION made on the date hereinafter set forth is made by BRIAR HILLS DEVELOPMENT, L.L.P., a Nebraska limited liability partnership, hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

> Lots 1 through 37, inclusive, in Briar Hills, a subdivision in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation of the values and amenities of Briar Hills, for the maintenance of the character and residential integrity of Briar Hills, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Briar Hills. As used herein, the term "Common Facilities" shall mean all recreational facilities, dedicated and nondedicated roads, paths, ways and green areas, signs and entrances for Briar Hills, as well as any and all other facilities, acquired, constructed, improved, maintained, operated, repaired or replaced by the Homeowner's Association for the general use, benefit and enjoyment of the members of the Homeowner's Association.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot is and shall be subject to all and each of the following conditions and other terms:

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ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors

or assigns, for use in connection with a Common Facility, or as a church, school, park, or for other non-profit use.

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, dog house, tree house, pool house, antenna satellite receiving station or "discs", flag pole, solar heating or cooling device, tool shed, wind mill or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review such plans in light of the conditions and restrictions of Article I of this Declaration and in relation to the type and exterior of improvements constructed, or approved for construction, on the Lots. In this regard, Declarant intends that the Lots shall be developed as a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in a reasonable manner to promote conformity and harmony of the external design of the improvements constructed within Briar Hills Subdivision and to protect the value, character and residential quality of all Lots in a manner consistent with this Declaration. If Declarant determines that the proposed Improvement does not conform with the surrounding improvements or topography or will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of a proposed Improvement.

C. Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

D. No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

E. At such time as there shall be a completed single family residence constructed and occupied on Ninety percent (90%) of all Lots as may be developed by Declarant or ten (10) years, whichever shall occur first, all discretions of Declarant under

this Article I, Paragraph 2 shall transfer to the Homeowner's Association and shall be administered pursuant to the provisions of Article III herein.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height. Residences on all Lots shall have a minimum front set back of twenty-five (25) feet.

4. The exposed front foundation walls and any foundation walls facing any street of all main residential structures must be constructed of or faced with brick or other material approved by Declarant. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete or other approved material. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, wood or other material approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt shingles or other approved material shingles.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale". No premises shall be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of the Lots.

6. No exterior television or radio antenna or disc greater than 18" x 24" in size shall be permitted on any Lot.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Paragraph 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction. All residential Lots shall provide at least a minimum number of off street parking

areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

9. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuge, rubbage or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards. All Lots shall be fully sodded at the time of completion of the Improvements.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

11. No fence or mass planted hedges or shrubs or other structures which effectively act as a boundary fence shall be permitted on any Lot unless approved in writing by Declarant. A privacy fence may be construction out of wood, subject to the approval in writing by Declarant. Electronic invisible fencing for dogs is permitted.

12. No swimming pools are allowed.

13. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot.

14. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha, Nebraska.

15. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

16. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, if required by this Declaration. No dog runs or kennels of any kind shall be allowed in Briar Hills Subdivision. No livestock or agricultural-type animals shall be allowed in Briar Hills Subdivision, including pot-bellied pigs.

17. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

18. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat.

19. No structure of a temporary character, carport, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other non-prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside Briar Hills to any Lot without the written approval of Declarant.

20. Except for connection and access facilities, all utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

21. No manufactured home, as that term is defined in Section 71-4603(1) of the Nebraska Revised Statutes, 1943, shall be permitted in Briar Hills Subdivision.

22. Subject to the Association's Exterior Maintenance Service Obligations described in Article IV, Paragraph 1 of this Declaration, each Owner shall repair and maintain in good condition any and all trees, shrubs, and bushes placed in and along the ten (10) foot public sidewalk easement area on their Lot. Should any of such trees, bushes or shrubs be removed, die or deteriorate into poor condition, the Owner of the Lot shall, at its expense, replace such trees, bushes or shrubs with trees, bushes or shrubs of the same or similar quality. In the event such replacement does not occur within thirty (30) days following written notice from either the Declarant or the Association, then either Declarant or the Association may cause such replacement to occur and charge the Owner of the Lot for such replacement.

23. The exterior trim and siding on each residence constructed on a Lot must be maintained in good and proper condition and must be fully painted no less frequently than the earlier of (i) sixty (60) months following completion of initial construction and thereafter no less frequently than sixty (60) months following the previous painting; or (ii) within ninety (90) days following notification from the Association to the Owner that the exterior paint on the Owner's residence has deteriorated to less than a good and proper condition.

24. Any landscape beds that are to be maintained by the Association shall be covered with river rock.

25. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such locations, configurations, and designs as it may determine appropriate in its sole and absolute discretion.

ARTICLE II.
LANDSCAPE BUFFER

1. Declarant may, in its sole discretion, construct a landscape buffer fence along the west sixteen (16) feet of the east twenty-four (24) feet of Lot 20 (the "Landscape Buffer"). Such lot is referred to as the "Boundary Lot."

2. Declarant hereby declares that the Boundary Lot are subject to a permanent and exclusive right and easement in favor of Declarant and Briar Hills Homeowners Association to maintain, repair and replace the Landscape Buffer. Without limitation of the rights and easements granted by this Declaration, the Declarant or Association may come upon any of the Boundary Lot for the purpose of constructing, installing, repairing, maintaining, removing and replacing the Landscape Buffer.

ARTICLE III.
HOMEOWNERS' ASSOCIATION

1. The Association. Declarant shall cause the incorporation of Briar Hills Townhomes Homeowners Association, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots, including:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include dedicated and nondedicated roads, paths, ways and green areas; and signs and entrances for Briar Hills. Common Facilities may be situated on property owned or leased by the Association, on public property, on private property subject to an easement in favor of the Association, or on property dedicated to a Sanitary Improvement District.

B. The performance of Exterior Maintenance Services as described in Article IV of this Declaration.

C. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests,

and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

D. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Briar Hills; and the protection and maintenance of the residential character of Briar Hills.

2. Membership and Voting. Briar Hills is being initially divided into thirty-seven (37) separate town home lots (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. The Association shall include further phases of Briar Hills as may be developed by the Declarant. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot.

The owner of each Lot, whether one or more entities, shall be entitled to one (1) vote for each Lot owned on each matter properly coming before the Members of the Association.

3. Additional Lots. Declarant reserves the right, without consent or approval of any Owner or Member, to expand the property to which this Declaration is applicable to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion may be affected from time to time by the Declarant by recordation with the Register of Deed of Douglas County, Nebraska, of an Amendment to Declaration, executed and acknowledged by Declarant, setting forth the identity of the additional residential lots which shall become subject to this Declaration.

In addition, the Amendment to Declaration may declare that all or any part of the additional residential lots which shall become subject to this Declaration shall be Boundary Lot as that term is defined in Article II herein and such additional Boundary Lot shall be subject to all restrictions and obligations on Boundary Lot set forth herein.

Upon the filing of any Amendment to Declaration which expands the property subject to this Declaration, the additional residential lots identified in the Amendment shall be considered to be and shall be included in the "Lots" for all purposes under this Declaration, and the Owners of the additional residential lots shall be Members of Briar Hills Homeowners Association with all rights, privileges and obligations accorded or accruing to Members of the Associations.

4. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon

authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

B. The doing and taking of such actions as may be necessary or appropriate to perform or secure performance of the Exterior Maintenance Services.

C. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

D. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

E. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

F. The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

I. General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

J. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

ARTICLE IV.
EXTERIOR MAINTENANCE SERVICES.

1. The Association shall provide exterior maintenance services upon each Lot upon which shall be erected a single family residence commencing at the time of occupancy or six months after completion of construction which ever shall occur first in the manner specified as follows (herein the "Exterior Maintenance Services").

A. The Owner is responsible for replacement of all dead trees, shrubs and bushes or other exterior landscaping improvements and upon failure to do so and after notice as provided in Article I Paragraph 22 hereof, each owner shall allow the Association to replace such dead trees, shrubs and bushes or exterior landscaping improvements at the expense of the Owner of record at the time of replacement and the owner shall reimburse the Association on demand. All trees, shrubs, bushes or exterior landscaping improvements installed by or at the direction of an Owner of a Lot shall remain the responsibility of the Owner.

B. The Association shall have no duty to repair, replace or maintain any exterior concrete surfaces.

C. Operation and maintenance of underground watering system, provided, however that the Owner of each Lot shall be responsible for draining and winterizing the underground watering system not later than November 1 of each year.

D. Removal of snow from drives, front walks and stoops only, as determined by guidelines set forth by the Board of Directors.

E. Removal of trash no less often than weekly.

2. The Association shall provide "exterior painting services" for each single family residence record upon Lot at such times and in such manner as shall be determined by the Board of Directors of the Association from time to time.

3. There is hereby reserved and granted to the Declarant and the Association, and their respective officers, directors, employees, agents and contractors, a perpetual and nonexclusive easement for access to, from, on and along all Lots for the purpose of performing all Exterior Maintenance Services.

ARTICLE V.
DUES AND ASSESSMENTS.

1. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and

assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board of Directors of the Association.

2. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues and assessments in respect of any Lot, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant. Lots owned by the Declarant shall not be subject to imposition of dues, assessments or Association liens.

3. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

4. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Paragraph 1 of Article III, and to perform the Powers and Responsibilities of the Association described in Paragraph 4 of Article III and to perform the Exterior Maintenance Services described in Paragraph 1 of Article IV.

5. Annual Dues. The amount of the annual dues for the Association shall be established from time to time by the Board of Directors of the Association.

6. Exterior Painting Services. The cost for exterior painting services maybe assessed by the Board of Directors against each Lot either at the time of incurring the exterior painting services or by establishing monthly dues for each Lot for the purpose of creating a fund to pay for the exterior painting services, as required by the Board of Directors.

7. Excess Dues and Assessments. With the approval of seventy-five percent of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

8. Monthly Assessments. The monthly assessments shall be paid prorata by the Owners of all Assessable Lots based upon the total number of Assessable Lots; provided, however, the Board of Directors of the Association may equitably adjust such prorations if it determines that certain Assessable Lots on which all of the Improvements are not yet completed do not receive all of the benefits for which such assessments are levied. The monthly assessments may be collected on a monthly or other periodic basis by the Association. The Board of Directors of the Association

shall fix the amount of the monthly or other periodic assessments against each Assessable Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates on which payments are due shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on a particular Assessable Lot shall be binding upon the Association as of the date of its issue by the Association.

9. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues and assessment shall bear interest from the due date at the rate of Fifteen percent (15%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

10. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

ARTICLE VI.
EASEMENTS

1. In addition to the easement provided in Article IV, Paragraph 3 herein, a perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U.S. West Company, and any company which has been granted a franchise to provide a cable television system within the Lots, Metropolitan Utilities Company, and Sanitary and Improvement District No. 420 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior Lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear

boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of the date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. A perpetual easement is further reserved in favor of the Declarant and the Association, its successors and assigns, to create, install, repair, reconstruct, paint, maintain, and renew a landscape buffer and related accessories located on, over and upon the west sixteen (16) feet of the east twenty-four (24) feet of Lot 20.

4. Other easements are provided for in the final plat of Briar Hills which is filed in the Register of Deeds of Douglas County, Nebraska (Book 2082, Page 396).

ARTICLE VII.
GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of 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.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Declarant, or any person, firm, corporation,

partnership, or entity designated in writing by Declarant, in any manner which it may 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 owner of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

3. By written consent of the Declarant for a period of Five (5) years from the date hereof, any or all of the covenants, conditions, restrictions and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver modification or amendment will have on Briar Hills and the Owner requesting the waiver. Declarant's decision on any requested waiver, modification or amendment shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Paragraph, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification or amendment.

4. Declarant, or its successors or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

5. Invalidation of any covenant by judgment or court order shall in no way affect 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 29th day of January, 1999.

BRIAR HILLS DEVELOPMENT, L.L.P.,
a Nebraska limited liability company, "Declarant"

By: BHD, L.L.C., a Nebraska limited liability company

By: Maurice M. Udes
Maurice M. Udes, Manager

By: NEW MILLENNIUM, L.L.P., a Nebraska limited liability partnership

By: _____
Kevin Irish, Partner

By: _____
Herbert Freeman, Partner

By: B-4, L.L.C., a Nebraska limited liability company

By: _____
Paul M. Brown, Member

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 29 day of January, 1999, by MAURICE M. UDES, Manager of BHD, L.L.C., a Nebraska limited liability company, and Partner in Briar Hills Development, L.L.P., a Nebraska limited liability partnership, as his voluntary act and deed and the voluntary act and deed of the company.

GENERAL NOTARY-State of Nebraska
MARY F. GOSTOMSKI
My Comm. Exp. March 31, 2001

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 28th day of January, 1999, by KEVIN IRISH and HERBERT FREEMAN, Partners of New Millennium, L.L.P., a Nebraska limited liability partnership, and Partner in Briar Hills Development, L.L.P., a Nebraska limited liability partnership, as his voluntary act and deed and the voluntary act and deed of the partnership.

GENERAL NOTARY-State of Nebraska
CAROLE J. HUNSLEY
My Comm. Exp. Nov. 9, 1999

_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 29 day of January, 1999, by Paul M. Brown, Member of B-4, L.L.C., a Nebraska limited liability company, and Partner in Briar Hills Development, L.L.P., a Nebraska limited liability partnership, as his voluntary act and deed and the voluntary act and deed of the company.

GENERAL NOTARY-State of Nebraska
MARY F. GOSTOMSKI
My Comm. Exp. March 31, 2001

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Notary Public

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