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Floyd J. Dowling

REGISTER OF DEEDS



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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS OF SOUTHBROOK, A SUBDIVISION
IN SARPY COUNTY, NEBRASKA**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF SOUTHBROOK, A SUBDIVISION IN SARPY COUNTY, NEBRASKA (this "Declaration"), made on the date hereinafter set forth, is made by Southbrook Development, LLC, a Nebraska limited liability company, hereinafter referred to as the "Declarant."

PRELIMINARY STATEMENT

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

Lots 1 thru 196, inclusive, and Outlots A through E, all in Southbrook, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

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

The Declarant desires to provide for the preservation of the values and amenities of Southbrook, for the maintenance of the character and residential integrity of Southbrook, and for the acquisition, construction and maintenance of certain land to be conveyed to and owned by the Association (as defined herein) or controlled by an easement in favor of the Association or required as a contractual obligation of the Declarant or the Association (individually, a "Common Facility" and collectively, the "Common Facilities") for the use and enjoyment of the residents of Southbrook.

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 Southbrook. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or

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acquiring any right, title or interest in each Lot, or any part thereof, as more fully described herein. The Lots are and shall be subject to all and each of the following conditions and other terms.

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 designated by Declarant for townhome use, or 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 nonprofit use.

2. No residence, building, fence (other than fences constructed by Declarant), wall, pathway, driveway, patio, patio cover enclosure, deck, rock garden, swimming pool, dog house, pool house, tennis court, flag pole, satellite receiving station or disc, solar heating or cooling device, playground equipment or other external improvement above or below the ground (herein individually referred to as an "Improvement" and collectively as "Improvements") shall be constructed, erected, placed or permitted to remain on any Lot, or right-of-way abutting any Lot, nor shall any grading, excavation or tree removal for any Improvement be commenced, except for Improvements which have been approved by Declarant, as follows:

A. An Owner (as that term is defined herein) 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"). The Plans shall include a description of the type, quality, color (which shall be an earth tone hue) and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the Plans, the Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review the Plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall be developed 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 its sole and absolute discretion, to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Declarant determines, in its sole and absolute discretion, that the proposed Improvement 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 the proposed Improvement.

C. Written Notice of any approval of a proposed Improvement shall be mailed, electronically mailed or faxed to the Owner at the address specified by the Owner upon submission of the Plans. Such notice shall be mailed, if at all, within

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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 Owner, or combination of 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.

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, except that Lots designated for townhome use may have attached townhomes not exceeding two and one-half stories in height. All Improvements on the Lots shall comply with all requirements of the zoning code and municipal code of the applicable governing authority, including but not limited to all set back and side yard requirements.

4. Subject to the specific requirements set forth below, all foundations shall be constructed of poured concrete, concrete blocks, brick or stone. The exposed foundation walls on the front of all main residential structures facing any street must be constructed of or faced with clay-fired brick or stone or other material approved by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with asphalt shingles or its equivalent, weathered wood in color.

Fireplaces and flues: In the event that a wood-burning fireplace and/or flue is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front of the home, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. In the event that a pre-fabricated unit fireplace which is wood or gas 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 pre-fabricated unit fireplace which is wood or gas burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front wall of the dwelling on a Lot, the protrusion for the fireplace and/or flue shall be finished with clay-fired brick or stone.

5. No streamers, posters, banners, balloons, exterior illumination or other rallying devices will be allowed on any Lot in the promotion or sale of any Lot, residential structure or property unless approved in writing by the Declarant. 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". A sign erected by

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a builder for its model home(s) shall not be subject to the sign restrictions set forth herein, but such signs/advertising shall be subject to the approval of Declarant. No business activities of any kind whatsoever shall be conducted on any Lot; nor shall any Lot be used in anyway for any purpose which may endanger the health or unreasonably disturb an Owner or Owners of any Lot or any resident thereof. Provided, however, this Paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, its agents or assigns and designated builders, during the construction and sale of the Lots.

6. No outside radio, television, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial shall be erected or placed on any structure or on any Lot, except with the prior written approval of the Declarant, one (1) satellite dish of 24" or less in diameter or diagonal measurement which is screened from view of any street or sidewalk will be permitted per Lot. The foregoing notwithstanding, any earth station, satellite dish or other electronic antenna or aerial specifically exempted from restriction by statute, regulation, binding order of a court or governmental agency shall be maintained in accordance with the strictest interpretation or condition for such use as may be permitted by such order.

7. No tree houses, sheds, doll houses, windmills, exterior storage sheds, or similar structures shall be permitted on any Lot.

8. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles, snowmobiles, recreational vehicles, or other self-propelled 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 or similar chattels 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.

9. 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 forty-eight (48) continuous hours and no more than twenty (20) days combined within any 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 semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 9 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off-street parking spaces/area for private passenger vehicles required by the applicable zoning ordinances.

10. 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 on the designated day each week 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, refuse, rubbish 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 in an area no larger than eight (8') by ten (10') feet.

11. No obnoxious 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. 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.

12. Fencing is permitted only with Declarant's written approval. If approved, no fence shall be permitted to extend beyond the front line of a main residential structure. Unless other materials are specifically approved in writing by Declarant, fences shall only be composed of wood, black wrought iron, black aluminum, black chain link or black vinyl, which shall be uniform in appearance. If approved by the Declarant, no fences or walls shall exceed a height of six (6) feet. No fence shall be installed less than six inches (6") above the ground except for fencing material, approved in writing by Declarant, which does not impede the natural flow of storm and other water drainage. No other type of fencing shall be allowed on any Lot unless specific written permission by the Declarant is granted. No traditional (gray) chain link fencing shall be allowed. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. Any fences, hedges or mass planted shrubs installed by or at the direction of the Declarant shall not be subject to the provisions of this paragraph.

13. No swimming pool may extend more than one foot above ground level. Subject to the provisions of paragraph 2 of this Article, any swimming pool allowed by this paragraph shall be fenced. In addition to the requirements of paragraph 2 of this Article, before any above-ground swimming pool may be installed on any Lot, the Owner thereof shall first obtain written approval by the Declarant of an appropriate landscaping plan.

14. 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 or intended drainage of any Lot. Any construction activities on any Lot causing damage to any adjacent Lot, including but not limited to removal of vegetation, shall be immediately repaired, including but not limited to re-grading and reseeding, as necessary.

15. A public sidewalk shall be constructed of concrete five (5') feet wide by five (5') inches thick in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed four (4') 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 in order to comply with any requirements of the applicable governing jurisdiction, by virtue of ordinance or agreement (per City of Papillion zoning laws).

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16. 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.

17. No stable, dog run, kennel or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog, provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, as required by this Declaration. Dog houses and dog runs shall only be allowed at the rear of the residence, attached to or immediately adjacent to the residence and hidden from view. No animals, livestock, agricultural-type animals, fowl or poultry of any kind, including, pot-bellied pigs, shall be raised, bred or kept on any Lot. No excessive barking of any dog, or other excessive noise of any kind from any animal, shall be permitted on any Lot. Any dog or other animal that barks or makes other noise outside the home of any Lot at any time shall wear electronic collars to prevent such barking or other noise.

18. Prior to placement on any Lot, any exterior air-conditioning condenser unit shall be first approved by the Declarant according to the requirements set forth in Article I, paragraph 2, and shall be placed in the rear yard or any side yards so as not to be visible from public view. 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, including grass clippings.

19. 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.

20. No structure of a temporary character, carport, detached garage, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structure or dwelling shall be moved from outside the Southbrook subdivision to any Lot without the written approval of Declarant.

21. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

22. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such location, configurations, and designs as it may determine appropriate in its sole and absolute discretion, and such Lot owner shall bear all

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costs and expenses of the same and shall hold Declarant harmless from any and all liability resulting therefrom.

23. Vehicular ingress and egress to and from a Lot upon the public streets shall be limited to the driveway only and no owner shall construct more than one driveway or other means of vehicular access to the public streets upon a Lot.

ARTICLE II.
HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has or will cause the incorporation of Southbrook 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 recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks dedicated and non-dedicated roads, paths, ways and green areas; and signs and entrances for Southbrook. 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 and improvement district;

B. 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; and

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Southbrook; and the protection and maintenance of the residential character of Southbrook.

2. Owners' Easements of Enjoyment and Delegation of Use. Every Owner shall have a right and easement of enjoyment in and to the Common Facilities which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association, its lessor, successor and/or assigns, to promulgate reasonable rules and charge reasonable admission and other fees for the use of any

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Common Facility;

- B. The right of the Association to suspend the voting rights and right to use of the Common Facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations; and
- C. The right of the Association to dedicate or transfer all or any part of the Common Facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the Members has been recorded.

Any Owner may delegate, in accordance with the rules and regulations of the Association, his right of enjoyment to the Common Facilities to the members of his/her family.

3. Membership and Voting. The "Owner" of each Lot shall be a Member of this Association. 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 of 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.

Except for Lots owned by the Declarant, the Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association. Lots owned by the Declarant shall each be entitled to twenty (20) votes on each matter properly before the Members of the Association.

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. Except as set forth in Section 4C, below, 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.

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B. The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within Southbrook.

C. Upon the recommendation and a vote of sixty-six (66%) percent of the Owners, the Association shall have the power and authority to enter into a competitive contract for residential refuse and trash hauling services from each Lot within Southbrook. The Board of Directors shall, however, have the power and authority to contract for refuse and trash hauling services from the Common Facilities and other designated areas controlled by the Association.

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

E. 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.

F. 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.

G. 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.

H. 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.

I. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the general administration and management of the Association, and execution of such documents and doing and performance of their duties and responsibilities for the Association.

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.

5. Mandatory Duties of Association. The Association shall maintain, in a generally neat and clean condition, any and all entrance ways, fence, signs and landscaping which have been

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installed in easement or other areas of Southbrook and center islands dividing dedicated roads, in generally good and neat condition.

6. Covenant for and Imposition of Dues and Assessments. Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay dues and assessments as provided for herein. 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

7. Abatement of Dues and Assessments. Notwithstanding any other provisions of this declaration, the Board of Directors may abate all or part of the dues or assessments due 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 or any of Declarant's designated builders.

8. 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.

9. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the powers and responsibilities of the Association described in Sections 4 and 5 of this Article.

10. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 11, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

- A. Two Hundred Fifty and No/100th (\$250.00) Dollars per Lot.
- B. In each calendar year beginning on January 1, 2016, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

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11. Assessments for Extraordinary Costs. In addition to the annual dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate special assessments in each calendar year shall be limited in an amount to Two Hundred and No/100th Dollars (\$200.00) per Lot. Notwithstanding the foregoing, the Association shall levy a one-time charge for the mailbox allocated to each Lot, which one-time charge shall be determined by the Association on annual basis.

12. Excess Dues and Assessments. With the approval of seventy-five (75%) percent of the Members of the Association, the Board of Directors may establish annual dues and/or assessments in excess of the maximums established in this Declaration.

13. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may be abated as to individual Lots owned by a person or entity other than the Declarant and shall be abated with respect of any Lot during the period such Lot is owned by the Declarant or any of Declarant's designated builders, as provided in Section 7 of this Article.

14. Certificate as to Dues and Assessments. The Association shall, upon written request 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 to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

15. 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 or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, or the maximum legal rate of interest, whichever is less. 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.

16. 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.

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17. Subsequent Phase Declaration. Declarant reserves the right, without consent or approval of any other Owner, to expand the Association or amend this Declaration to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion(s) may be affected from time to time by Declarant or Declarant's assignee by recordation with the Register of Deeds of Sarpy County, Nebraska of a Declaration of Covenants, Conditions, Restrictions and Easements, executed and acknowledged by Declarant or Declarant's assignee, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration").

Upon the recording of any Subsequent Phase Declaration which expands the residential lots included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Lots" for purposes of this Article II and this Declaration, and the Owners of the additional residential lots shall be Members of the Association with all rights, privileges and obligations accorded or accruing to Members of the Association.

ARTICLE III.
EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, CenturyLink and any company which have been granted a franchise to provide a cable television system within the Lots, Black Hills Energy, the City of Papillion, and Sanitary and Improvement District No. 301 of Sarpy 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; and 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 Black Hills Energy and the City of Papillion, their respective 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 cull-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

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fail to construct such facilities along any of such Lot lines within thirty-six (36) months of 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 easement ways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easement ways 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. Each Lot Owner hereby grants to each and every other adjacent Lot Owner a mutual benefit drainage easement over each other's Lot and each Owner agrees that no Owner of a Lot shall construct any improvement, ditch, dam or other thing or device which affects or alters the natural flow of surface waters from, upon, or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash, or drainage channel from, upon, or across any Lot, without the express written approval of the Association. In no event shall any Owner of a Lot divert, alter or diffuse surface waters across another Lot Owner's Lot in a negligent manner.

4. A perpetual easement is further reserved in favor of Declarant and the Association, and their successors and assigns to, at their option, create, install, repair, reconstruct, paint, maintain, and renew a bufferyard and/or fence standards and related accessories located on, over and upon the rear most ten (10) foot wide strip of land abutting the rear boundary lines of all Lots on the perimeter of the Southbrook subdivision. Fence placement shall be within one (1) foot of the interior (home side) of said ten (10) foot easement.

5. An exclusive perpetual easement, and reasonable access thereto, is hereby reserved in favor of Boyer Young Easement Holding Company, and its successors and/or assigns, to erect, install, construct, operate, maintain, repair and remove poles, wires, cables, conduit, and other related facilities and appurtenances thereof, above and below ground, and to extend thereto or therein wires and/or cables for the carrying or transmission of electric current for light, heat and power, and for the transmission of signals and sounds of all kinds, including signals provided by a cable television system, internet access system, telephone system, and/or any other communication system, and the reception related thereto, on, over, under, through and across a ten foot (10') strip of land abutting all interior boundary lines of the easements set forth in the final plat of Southbrook which is filed in the Register of Deeds of Sarpy County, Nebraska (Instrument No. 201505651), and any replat thereof.

6. CenturyLink and/or any other telecommunications company may, upon completion of its distribution system, require a connection charge on some or all of the Lots at the time service is requested.

7. Other easements are provided for in the final plat of Southbrook which is filed in the Register of Deeds of Sarpy County, Nebraska (Instrument No. 201505651).

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ARTICLE IV.
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 to either 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 for a term of twenty-five (25) years from the date of this Declaration. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods unless terminated or amended by the owners of not less than seventy-five (75%) percent of said Lots, which termination or amendment shall thereupon become binding upon all Lots. For a period of ten (10) years following the date hereof, Declarant, its successors or assigns, shall have the sole, absolute and exclusive right to amend, modify or supplement all of any portion of this Declaration from time to time by executing and recording one or more duly acknowledged amendments to this Declaration in the Office of the Register of Deeds of Sarpy County, Nebraska. Thereafter, this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

3. Southbrook Development, LLC, a Nebraska limited liability company, may assign its rights as Declarant hereunder at any time, by filing an Assignment of Declarant Rights with the Sarpy County Register of Deeds. In addition, Southbrook Development, LLC, a Nebraska limited liability company, or its successor or assign, may terminate its status as Declarant under this Declaration, at anytime, by filing a Notice of Termination of Status as Declarant. Upon such termination filing, the 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.

4. 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.

5. An established amphitheater, currently known as Sumtur Amphitheater, has been constructed on the property legally described as Dam Site 20, Section 33, Township 12 North, Range 12 East, generally located east of 108th Street. Declarant anticipates that the Southbrook Lots will be potentially affected by usual and customary amphitheater operations. Nevertheless, purchasers and owners of the Lots should be aware that: (i) normal use, operation and maintenance of Sumtur Amphitheater will include, but not be limited to, noise, music, sound systems and speakers, vibrations, lights, mowers, power equipment, odors, and additional traffic, before, during and after the Sumtur Amphitheater operations; and (ii) such usual and customary Sumtur Amphitheater activities may from time to time affect the use and enjoyment of the Lots and may include activities

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other than those typically related to amphitheater uses. Each Lot Owner acknowledges that they accept the usual and customary operations of the Sumtur Amphitheater and the effect on the Lots. The Declarant hereby declares, grants and establishes easements on the Lots in favor of the Sumtur Amphitheater operations for: (i) intrusion of noise and other effects from the usual and customary Sumtur Amphitheater operations, and other activities permitted at the Sumtur Amphitheater, including, but not limited to, noise, music, sound systems and speakers, vibrations, lights, mowers, power equipment, odors, and attendee participation; and (ii) intrusion of lights and traffic into the Lots.

6. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Maximum driveway slope at the sidewalk intersections shall be no more than two percent (2%) cross slope within public right-of-way to provide for a tabled driveway cross slope that is compliant with ADA/PROWAG guidelines and City of Papillion Standards. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay on driveway approaches will be permitted. The Lot owner shall be responsible to provide adequate remedial measures to prevent street creep/driveway binding on any curved streets where the street abuts the driveway approach.

7. The driveway constructed on each Lot that is located on a public street which may be susceptible to street creep, including but not limited to curved streets, steeply sloped streets, T intersections, and/or cul-de-sacs, shall be constructed to accommodate the potential for street creep. The construction measures taken to accommodate for street creep may include, by way of illustration, larger expansion joints in areas susceptible to creep, placing full-depth expansion material at additional locations throughout the driveway and at the edge along any foundation or other concrete slab, such as a garage floor or sidewalk. In addition, the Owner of a Lot abutting a section of public street that may be susceptible to street creep may also address the street creep issue by placing two (2") inches of full-depth expansion material between the public street curb and the private driveway.

IN WITNESS WHEREOF, the Declarant has caused these present to be executed this 6th
day of May, 2015

DECLARANT:

SOUTHBROOK DEVELOPMENT,
LLC, a Nebraska limited liability
company

By: [Signature]
Name: Timothy W. Young
Its: ADMINISTRATIVE MEMBER

STATE OF NEBRASKA)
)ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me this 6th day of May 2015, by
Timothy W. Young, member on behalf of Southbrook Development, LLC, a Nebraska limited
liability company.

[Signature]
Notary Public

