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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS**

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
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2006110905

THE SANCTUARY

EACH PERSON ACQUIRING A LOT IN THE SANCTUARY IS BOUND BY ALL OF THE TERMS AND PROVISIONS OF THIS DECLARATION AND MUST READ IT IN ITS ENTIRETY IN ORDER TO BE FULLY AWARE OF ALL REQUIREMENTS IMPOSED.

AMONG SUCH REQUIREMENTS ARE THE FOLLOWING:

- THAT EACH OWNER OF A LOT BE A MEMBER OF, AND PAY ASSESSMENTS TO, THE SANCTUARY HOMEOWNER'S ASSOCIATION.
- THAT APPROVAL OF THE DECLARANT BE OBTAINED BEFORE COMMENCEMENT OF ANY IMPROVEMENTS UPON OR DISTURBANCE OF A LOT.
- THAT UPON TRANSFER OR SALE OF ANY LOT, THE REQUIREMENTS OF ARTICLE VI BE FOLLOWED.

THE RECITATION OF CERTAIN REQUIREMENTS OF THIS DECLARATION ABOVE DOES NOT RELIEVE ANY OWNER OF A LOT IN THE SANCTUARY FROM THE REQUIREMENTS OF ALL PROVISIONS OF THIS DECLARATION AND ANY AMENDMENTS TO THIS DECLARATION WHICH MAY HEREAFTER BE RECORDED.

AS SET FORTH IN THIS DECLARATION, THE DECLARANT RESERVES TO ITSELF THE RIGHT TO MODIFY, ALTER OR CHANGE THE DEVELOPMENT PLAN FOR THE SANCTUARY, CONSISTENT WITH THE UNIFORM SCHEME OF DEVELOPMENT FOR THE SANCTUARY. DECLARANT HAS RESERVED CERTAIN RIGHTS TO UNILATERALLY AMEND THIS DECLARATION.

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**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE SANCTUARY, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by LANOHA REAL ESTATE COMPANY INC., a Nebraska corporation, f/k/a Lanoha Development, Inc., 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 94 inclusive, in
The Sanctuary, a subdivision, as surveyed, platted and recorded in Douglas
County, Nebraska.

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

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

Outlots "A" through "H" inclusive, in The Sanctuary, a subdivision, as
surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are referred to collectively as the "Outlots" and individually as each "Outlot".

The Lots and Outlots are situated in The Sanctuary, a residential subdivision situated in Douglas County, Nebraska and herein referred to as "The Sanctuary" or the "Project". The Declarant desires to provide for the preservation of the values and amenities of The Sanctuary, for the maintenance of the character and residential integrity of The Sanctuary and for the acquisition,

construction and maintenance of Common Facilities for the use and enjoyment of the residents of The Sanctuary.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots and Outlots 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 Outlots and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and Outlots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot and Outlot, or any part thereof, as is more fully described herein. The Lots and Outlots are, and each Lot and Outlot is and shall be subject to all and each of the following conditions and other terms.

ARTICLE I. DEFINITIONS

Section 1. "Additional Declaration."

Shall mean and refer to any additional Declaration of Covenants, Conditions and Restrictions filed in the Office of the Register of Deeds in Douglas County, Nebraska, with regard to a certain phase, section or portion of the Property.

Section 2. "Association."

Shall mean and refer to THE SANCTUARY HOMEOWNER'S ASSOCIATION, a Nebraska not-for-profit corporation, its successors and assigns.

Section 3. "Building Envelope."

Shall mean and refer to the area on any Lot, designated by Declarant, on which a Dwelling Unit may be erected.

Section 4. "Common Area" or "Common Areas."

Shall mean and refer to parking areas (if any), storage areas (if any), decorative street lights, the Trail System, the Roadways, street signs, and areas on Outlots owned by the Association or on which the Association or the Owners are granted an easement, collectively, and any other property specifically shown and designated on any Plat as "Common Area" or "Outlot." The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Project.

Section 5. "Common Driveway"

Shall mean that portion of a driveway that extends from a Roadway onto one or more Lots and that will serve one or more Lots.

Section 6. "Common Facilities."

Shall refer to any recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks, dedicated and non-dedicated roads, paths, ways and green areas including landscaping and signs and entrances for the Project and as further described in Article III, Section 1 a). The Declarant reserves the right, but not the obligation, to provide Common Facilities.

Section 7. "Declarant."

Shall mean and refer to Lanoha Real Estate Company, Inc. until its Declarant status is terminated and a successor Declarant is appointed as provided in this Declaration. Upon such appointment of a successor Declarant, all rights, duties and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

Section 8. "Declaration."

Shall mean and refer to this Declaration of Covenants, Conditions and Restrictions as same may be amended and/or supplemented from time to time as herein provided.

Section 9. "Dwelling Unit."

Shall mean a house in its traditional meaning, that includes a combination of rooms designed for year-round habitation, and containing bedrooms, bathrooms and kitchen facilities, and designed for residence by a family or household unit.

Section 10. "Improvement" or "Improvements."

Shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all Dwelling Units and other buildings (including any exterior devices attached to or separate from buildings); storage sheds or areas; roofed structures; parking areas; fences, "invisible" pet fencing; walls; irrigation equipment, apparatus and systems; landscaping (including cutting of trees); hedges; mass plantings; poles; driveways; changes in grade or slope; site preparation; swimming pools; hot tubs; jacuzzis; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later modifications, reconstruction, renovation or other change to Improvements, provided, however, the definition of Improvements does not include the replacement or repair of Improvements previously approved by Declarant, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by Declarant.

Section 11. "Lot" or "Lots"

Shall have the meaning as set forth in the Preliminary Statement of this Declaration.

Section 12. "Maintenance Area" or "Maintenance Areas."

Shall mean the Common Areas and Common Facilities that are owned by or are subject to easement in favor of the Association and require periodic maintenance, repair and replacement, including, and not by way of limitation entryways and entrance monument(s) for the Project; landscaping amenities (including signage, lighting, monuments and irrigation systems); hard surface or soft surface sidewalks, trails, walking or jogging paths, or similar pathways over and under those portions of the Property being part of the Trail System.

Section 13. "Member" or "Members."

Shall mean and refer to every person or entity who holds membership in the Association.

Section 14. "Occupant."

Shall mean and refer to any person occupying all or any portion of a Lot or the Property for any period of time, regardless of whether such person is the Owner or a guest, invitee or tenant of an Owner.

Section 15. "Outlot" or "Outlots".

Shall have the meaning as set forth in the Preliminary Statement of this Declaration.

Section 16. "Original Purchase Price".

Shall mean the purchase price set forth in the purchase agreement for Declarant's sale of the Lot to an Owner other than Declarant.

Section 17. "Owner."

Shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or Outlot or other portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 18. "Person."

Shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust, or other legal entity.

Section 19. "Plat."

Shall mean and refer to the subdivision plat for the Project which is recorded from time to time in the Office of the Register of Deeds of Douglas County, Nebraska, and any and all revisions or Declarant approved replats thereof.

Section 20. "Project."

Shall mean and refer to the residential development being developed by Declarant on the Property and commonly known as "The Sanctuary".

Section 21. "Property."

Shall mean and refer to that certain real property located in Douglas County, Nebraska and being all of that property shown on the Plat.

Section 22. "Roadways."

Shall mean and refer to the publicly dedicated roads, streets, entranceways and cul-de-sacs in the Project, as shown on the Plat.

Section 23. "SID."

Shall mean Sanitary and Improvement District No. 520 of Douglas County, Nebraska.

Section 24. "Trail System."

Shall mean and refer to all hard surface or soft surface sidewalks, trails, walking or jogging paths including all trail related signs and structures within the Property as constructed by Declarant.

Section 25. "Turnover Date."

Shall have the meaning set forth in Article III, Section 4 of this Declaration.

Section 26. "Undeveloped Lot."

Shall mean and refer to any Lot on which the Dwelling Unit has not been completed.

ARTICLE II.
RESTRICTIONS AND COVENANTS

Section 1. Residential Restrictions.

Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant, or its successors or assigns, shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses) for the Project, or for use in connection with a Common Facility, park, or other non-profit uses.

Except for Improvements constructed by Declarant, or as otherwise approved by Declarant, no Improvements shall be constructed, erected, placed, altered, used or permitted to remain on any Lot other than one primary attached or detached single-family Dwelling Unit, 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 on any Lot shall deliver two sets of construction plans, detailed 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 in Article II and Article V of this Declaration and in relation to the type and exterior of improvements which have been 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 the Project and to protect the value, character and residential quality of all Lots in a manner consistent with this Declaration. By way of illustration, and not of limitation, it is intended that the architecture of the residential structures constructed shall be consistent with the architecture found in the Tomlinson Woods and Linden Estates Subdivisions in Douglas County, Nebraska. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins will not be approved unless the Declarant determines that construction of these improvements will not be materially inconsistent with the scheme of development contemplated by this Declaration. If Declarant determines that the external design and location of the proposed Improvement

does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots and neighboring Lots, if any, 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 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 a 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 the approval or disapproval of 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) No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except parts of two or more platted Lots may be combined into one Lot provided that any proposed Lot combinations or administrative subdivisions must be approved by Declarant.

Section 2. Primary Dwelling Unit Size.

The square footage requirements set forth below are for enclosed finished living area, as measured from the ground level up (said ground level being the first level of any primary Dwelling Unit as viewed from the Roadway fronting same) and are exclusive of the areas in basements, vaulted ceiling areas and attics, porches of any type, garages, porte-cocheres and storage areas, decks, and patios.

Any primary Dwelling Unit erected upon any Lot shall contain not less than the following finished living areas:

	Minimum Total Finished Living Area	Minimum Ground Floor Finished Living Area
1 story	2,900	2,900
1.5 story	3,200	2,500
2 story	3,200	2,000

All Dwelling Units shall be constructed with an attached and enclosed garage that will accommodate a minimum of three (3) cars, and a maximum of six (6) cars.

Notwithstanding the foregoing requirements, the Declarant shall have the right, but not the obligation, because of restrictive topography, lot shape, dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage by granting a specific written variance.

Section 3. Exterior Lighting.

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.

Section 4. Fences and Walls.

In addition to the restrictions contained elsewhere in this Declaration, only fences or walls (including, without limitation, densely planted hedges or similar landscape barriers) approved in advance by Declarant, in their sole and absolute discretion, shall be used, installed and/or constructed along or near the side and/or rear boundary lines of each Lot within the Project. All fences and walls shall be maintained in a structurally sound and attractive manner. In all events, installed fences or walls must comply with applicable set back requirements imposed by the City of Elkhorn or other governing bodies. No fence or wall shall be erected on any Lot until the Declarant has given prior written approval of the color, size, design, materials and location for such fence or wall. The Declarant may, in its sole and absolute discretion, refuse to allow any fences or walls on a Lot, even if fences or walls are allowed on other Lots. Fence types which may receive consideration from Declarant will be constructed of wrought iron material or similar. Fencing constructed of chain link, white vinyl or similar material will not receive consideration.

Section 5. Animals.

No animals, livestock, or poultry, including horses, shall be raised, bred or kept on any portion of the Property, except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided they do not create a nuisance (in the judgment of the Declarant) such as, but without limitation, by noise, odor, damage or destruction of property or refuse. Any excrement deposited by an animal on any portion of the Property shall be promptly removed and appropriately disposed of by the owner of such animal. The number of household pets kept or maintained outside the Dwelling Unit on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. All pets shall be registered, licensed and inoculated as required by law. Dogs, cats and other pets shall at all times whenever they are outside of a Dwelling Unit be on a leash or otherwise confined to the Lot in a manner acceptable to the Declarant and the Association. Animal control authorities shall be permitted to enter and Property to patrol and remove pets and wild animals. The Association shall have the authority to establish further rules and regulations regarding pets, and to include the levy of fines and assessments against Owners that violate such rules and regulations.

No stable 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. Doghouses shall only

be allowed adjacent to the rear of the Dwelling Unit, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot.

Section 6. Signs.

No sign of any kind, including billboards, unsightly objects or nuisances, shall be displayed on any Lot except for sign(s) approved in advance by Declarant, except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale." Notwithstanding the forgoing, Declarant shall be entitled to erect and maintain signs and billboards advertising the Property, the Project or portions of either, or for any other purpose, on any portion of the Property owned by Declarant or in the Common Areas or Maintenance Areas.

Section 7. Temporary Structures.

No residence or building of a temporary nature, including a construction trailer, shall be erected or allowed to remain on any Lot, and no barn, carport, trailer, modular home, open basement, storage building, outbuilding, or utility building shall be erected on any Lot or attached to any Dwelling Unit unless approved by Declarant. Provided, however, nothing herein shall prohibit Declarant or a builder (subject to the prior approval of Declarant) from erecting or moving temporary buildings onto Lots owned by Declarant or such builders, or Lots which Owner has contracted with such builders, to be used for storage, or for construction or sales offices. 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 the Project to any Lot without written approval of Declarant.

Section 8. Utilities.

All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Transformers, electric, gas or other meters of any type, and any exterior air conditioning condenser, or other apparatus shall be located at the rear or sides of the buildings constructed on Lots or, if approved by the Declarant, located elsewhere on the Lot provided they are adequately screened as required by the Declarant in accordance with the provisions of this Declaration.

Section 9. Sediment Control.

During any construction on any Lots, Owners of Lots shall install and maintain siltation fences until their Lots are sodded, which siltation fences shall be installed in a manner which will eliminate or substantially reduce erosion and run-off of soil. Declarant shall have the right to require the owners of Lots to install and maintain the siltation fences in such locations, configurations, and designs as the Declarant may determine appropriate in its sole and absolute discretion. Owner shall indemnify and hold the Association, the Declarant, the immediate grantor of such Lot, and the SID harmless from any and all liabilities, costs, expenses, causes of action, attorney fees, fines, penalties or assessments with respect to Owner's construction and grading activities, including, without limitation, Owner's failure to comply with governmental requirements during and following construction.

Section 10. Building Envelope.

Unless approved in advance by Declarant, no construction activities, building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted to remain outside of the Building Envelope for that particular Lot as established by the Declarant. All accessory structures inside and outside of the Building Envelope are subject to prior approval by Declarant. The Building Envelope approved for any Lot may be obtained through Declarant at the request of Owner of such Lot.

Section 11. Tree Removal

No tree situated upon any Lot may be moved, removed, cut or destroyed unless complete plans describing the exact tree or trees to be moved, removed, cut or destroyed and the reason therefore, shall have been submitted to and approved in writing by Declarant. For purposes of this Section, "tree" shall mean and refer to a tree of any type with a diameter larger than one (1) inch at a height of five (5) feet. Unless waived in writing by the Association, each Owner shall repair and maintain in good condition any and all trees, shrubs, and bushes placed in and along the public easement areas on their Lot. Should any of such trees, shrubs or bushes be removed, die, or deteriorate into a 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 upon thirty (30) days written notice from either the Declarant or the Association, then either the Declarant or the Association may cause such replacement to occur and charge the Owner of the Lot for such replacement as provided in this Declaration.

Section 12. Waste.

No Lot, street or road shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed in a manner satisfactory to Declarant.

Section 13. Unsightly or Unkempt Conditions.

Any action which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot, other than in enclosed garages. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any Dwelling Unit or Declarant approved suitable storage facility, except when in actual use. 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 unsightly 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 construction, and then only in as neat and inconspicuous a manner as possible. Produce or vegetable gardens may only be planted and maintained in rear yards. No vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches. No clothesline shall be permitted outside of any Dwelling Unit at any time. No exterior television or radio antenna or satellite receiving dish of any type shall be permitted on any Lot. Notwithstanding the foregoing, an antenna or dish that is designed to receive over-the-air video programming signals that does not exceed one meter in diameter, and that is attached directly to the Dwelling Unit may be permitted provided that the location and size of the proposed antenna

or dish is first approved by the Declarant. No tree houses, tool sheds, dollhouses, windmills, exterior solar heating or cooling devices, or similar structures shall be permitted on any Lot.

Section 14. Nuisances.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's property. No Lot shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No incinerator, trash burner or fuel tank shall be permitted on any Lot. 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.

Section 15. Parking: Storage.

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 semi tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. Notwithstanding the forgoing, this shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of Dwellings Units or other Improvements during the period of construction. All Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Elkhorn, Nebraska.

Section 16. Construction.

All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and partially completed Dwelling Units or other Improvements shall not be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. Construction of the Dwelling Unit, including landscaping, must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by Declarant. Grading plans must be submitted to and approved by Declarant prior to commencement of Improvements to any Lot.

Any damage to the streets, roads or any part of any Common Area, Maintenance Area, or any utility system caused by an Owner or Owner's builder or such builder's subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and such builder's subcontractors on any portion of the Property shall keep such portion of the Property free of unsightly construction debris and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements.

Prior to commencement of construction of Dwelling Unit on any Lot, a plastic construction fence, not less than four (4) feet in height, but not exceeding six (6) feet in height, must be installed at Owner's expense along the perimeter of the Building Envelope and approved by Declarant. No materials, debris or objects are to be stored or placed, temporarily or permanently, along with no construction activities or machinery of any sort, on the exterior of this perimeter. The Owner of such Lot is responsible for costs associated with the clean-up resulting from construction activities. In addition, the perimeter of the Building Envelope of such Lot must be enclosed with silt fencing prior to commencement of construction in such a manner to keep the exterior of such perimeter free from silt or other forms of run-off. The silt fencing will be installed immediately inside the plastic construction fence. All silt fencing which is damaged or not effective in preventing run-off shall be immediately repaired. The Declarant has the right, but not obligation, without notice to Owner of such Lot, to repair all silt fencing which remains damaged and/or not effective in preventing run-off, after twenty-four (24) hours notice to Owner at the expense of the Owner of such Lot. The foregoing restrictions shall be supplemental to the requirement of Article II, Section 9 of this Declaration.

Prior to commencement of construction on any Improvement on the Property, Owner and those such Owner employs at any point in the design and/or construction process on such Improvement, including without limitation, architect, engineer and builder of such Improvement, must read and understand the Geotechnical Exploration Report on file at Lanoha Development Company, 19111 W. Center Road, Omaha, NE 68130. In accordance with the Geotechnical Exploration Report, any Improvement shall be designed and constructed to the applicable recommendations found within this report. The risk of foundation movement due to geologic conditions of such site is placed with Owner of such Lot. Lanoha Development Company or Declarant, its successors or assigns, shall not be liable for any damages resulting therefrom.

Section 17. Driveway Approaches.

Driveway approaches, extending nine (9) feet in length from street edge, 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.

Section 18. Recreational Improvements.

No tennis courts shall be allowed on any Lot. Swimming pools must have the prior approval of Declarant, and may not extend more than one (1) foot above ground level and comply with all other elements of this Declaration.

Section 19. Recreational Vehicles.

No motorized vehicle used primarily for recreational purposes, including without limitation, any motorcycle, moped, go-cart, snow mobile, three- or four-wheeled all terrain vehicle, or similar vehicle, may be operated on any Lot or any other part of the Property (including, without limitation, the Trail System), provided Declarant and the Association, and their respective employees, contractors and agents, shall have the right to operate such recreational vehicles in connection with the development, maintenance and operation of the Property.

Section 20. Governmental Requirements.

Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances and other governmental rules and restrictions in regards to the Lot(s) or other portion of the Property owned by such Owner (including, without limitation, applicable zoning and watershed laws, rules, regulations and ordinances).

Section 21. Sewer System.

Each Owner of any Lot(s) shall at such Owner's sole discretion have a non-exclusive right to access to the Project's sanitary sewerage collection system. The Owner of each Lot is solely responsible for the design and maintenance of system and pumps, including without limitation, any necessary ejector pumps, on those Lots on which any applicable Improvement resides below the necessary elevation of the gravity sewer stub located in the street right of way, along with all mechanical systems necessary for conveying sewage generated on Owner's Lot to the Project's gravity system. Owner shall not connect or cause to connect any non-sanitary sources of water flow to the mechanical sewerage pumping system of any Lot; included but not limited to storm water or irrigation water. Each Owner shall keep and maintain each mechanical pumping system owned by itself, as well as all appurtenant piping, electrical and control systems located thereon, in good condition and repair, including, but not limited to the repairing and replacement (or other appropriate external care) of all structures. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If the Owner shall fail to take reasonable steps to remedy any violation of this Section 21 or any defective condition of the sanitary sewer system on the Owners Lot within thirty (30) days after delivery of written notice by Declarant or the Association either the Declarant or the Association shall have the right to enter and access any Lot for the purpose of repairing, replacing or remedying any part of said sanitary sewer system in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition in order to maintain the system in compliance with applicable local health and building codes, and applicable environmental regulations. The expense incurred by either the Declarant or the Association in remediating the sanitary sewer system for an Owner of a Lot may be charged to the Owner of the Lot as provided in this Declaration.

ARTICLE III.
HOMEOWNER'S ASSOCIATION

Section 1. The Association.

Declarant has caused or will cause the incorporation of THE SANCTUARY 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 Sanctuary including:

- a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities and other amenities and Improvements constructed on Common Areas 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 nondedicated roads, paths, ways and green areas (including landscaping); decorative street lights and signs and entrances for the Project. Common Facilities may be situated on property owned or leased by the Association within the Project subdivision, on private property subject to an easement in favor of the Association, on public property, or on property dedicated to the SID.
- b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities and Common Areas, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities and Common Areas 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 Common Areas.
- c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of The Sanctuary; and the protection and maintenance of the residential character of The Sanctuary.

Section 2. Membership.

The "Owner" of each Lot shall be a Member of this Association. The purchaser of a Lot under a land contract of 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 any Lot. In addition, as long as the Declarant owns any part of the Property, Declarant shall be a Member of the Association.

Section 3. Classes of Voting Members.

The Association shall have two (2) classes of voting membership:

a) Class A Member:

Class A Members shall be all Association Members with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned by such Association Member. When more than one (1) Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

b) Class B Member:

The sole Class B Member shall be Declarant. The Class B Member shall be entitled to thirty (30) votes for each Lot owned by Declarant.

Section 4. Relinquishment of Control.

Notwithstanding anything contained herein to the contrary, the Class B Association Membership shall cease and be converted to the Class A Association Membership upon the earliest to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that the Class B membership cease and be converted to the Class A membership; or (c) December 31, 2020. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A Association Member.

Section 5. 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 of the Association, as further provided for in the Bylaws shall include but not be limited to the following:

- a) The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the adoption and enforcement of rules and regulations relating to the Common Facilities.
- b) The landscaping, mowing, watering, maintenance, repair and replacement of parks, Common Areas and Maintenance Areas and improvements on parks, Common Areas and Maintenance Areas, within or near the Project.
- c) To the extent not maintained by Douglas County, Nebraska, the Nebraska Department of Transportation or other governmental entity, as the case may be, the Association shall maintain or cause to be maintained the swales and medians and associated landscaping and related improvements along and within the Roadways.
- d) The Common Areas and Maintenance Areas shall be kept clean and free from debris and maintained in a safe and orderly condition, together with the landscaping thereof, in accordance with the highest standards for first-class residential developments.
- e) Except for portions of Common Areas located within a Lot (if any), the Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof.
- f) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- g) 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 Area or Common Facility against property damage and casualty, and purchase of liability insurance coverage and directors and officers liability coverage for the Association, the Board of Directors of the Association and the Members.

- h) 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.
- i) 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.
- j) 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.
- k) 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.
- l) 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.
- m) 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.

Section 6. Mandatory Duties of the Association.

The Association shall:

- a) Maintain and repair the Common Areas, Common Facilities, Maintenance Areas in good repair and neat condition;
- b) Maintain, repair, and replace as necessary all fences and trees, shrubs, and other natural barriers and green areas constructed on and along the Property, so that such are in good repair and neat condition; and
- c) In the event any Owner of a Lot shall fail to perform and fulfill his obligations and responsibilities of this Declaration, including, without limitation those prescribed in Article II, Sections 9, 11, 16, and 21, the Association may, in its sole discretion, perform or have performed such obligation or responsibility. If the Association undertakes to perform or have performed the responsibilities of the Owner, the cost of such performance plus a fifteen percent (15%) administrative charge shall be assessed against the Owner, and the Owner shall be obligated to promptly pay such sums to the Association. Assessment of such costs shall be made by written demand from the Association for payment by the Owner. If such assessment is not paid within thirty (30) days after written demand from the Association, such assessment shall constitute a lien on the Lot, which lien shall attach, have the priority and be enforceable by the Association in the same manner as liens for assessments and dues as provided in this

Declaration. The Association shall have the right, but not the obligation, to file of record a Notice of Lien Liability.

- d) The Association shall enter into a maintenance agreement with S.I.D. No. 520 and the City of Elkhorn which obligates the Association on a permanent and continuous basis to provide for the proper and continuous ownership, maintenance and upkeep of all medians, street islands, outlots, trails, and common areas, including all decorative street lights, subdivision signs, entrance signs and related fixtures, and including all landscaping and related fixtures. This provision of these Articles shall not be amended, deleted, or modified in any manner without the prior written consent of the City of Elkhorn, or any successor governmental authority with zoning jurisdiction. Notwithstanding the foregoing, and in accordance with Section XI(F) of the Subdivision Agreement between the City of Elkhorn, S.I.D. No. 520, and Lanoha Real Estate Company, Inc., S.I.D. No. 520 may provide mowing services along both side of the pedestrian/bike trails on Outlots "A" through "H inclusive, and may maintain plants and vegetation at the entry of The Sanctuary, and the expense thereof may be paid from the operating fund of S.I.D. No. 520. Provided however, that upon annexation of The Sanctuary by the City of Elkhorn or any successor governmental authority with zoning jurisdiction, the aforesaid mowing along both sides of said pedestrian/bike trails, and the aforesaid maintenance of plants and vegetation at the entry, shall be fully assumed by and shall become the sole and complete and permanent responsibility and expense of the Association, and such shall not be assumed by and shall not become a responsibility of the City of Elkhorn or any successor governmental authority with zoning jurisdiction.

Section 7. Imposition of Dues and Assessments.

The Associations may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred 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.

Section 8. Abatement of Dues and Assessments.

Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot. All dues and assessments are abated in respect of any Lot during the period such Lot is owned by the Declarant.

Section 9. 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 obligations 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.

Section 10. 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 III, and to perform the powers, responsibilities, and duties of the Association described in Section 5 and Section 6 of this Article III.

Section 11. Maximum Annual Dues.

Unless excess dues have been authorized by the Members in accordance with Section 13, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

- a) One-thousand and no/100 Dollars (\$1,000.00) per Lot.
- b) In each calendar year beginning on January 1, 2007, one-hundred ten percent (110%) of the aggregate dues charged in the previous calendar year.

Section 12. Assessments for Extraordinary Costs.

In addition to the 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. Unless excess assessments have been authorized by the Members in accordance with Section 13 below, the aggregate assessments in each calendar year shall be limited in amount to One-thousand and no/100 Dollars (\$1,000.00) per Lot.

Section 13. Excess Dues and Assessments.

With the approval of sixty percent (60%) 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.

Section 14. Uniform Rate of Assessments.

Except for assessments as provided in Article III, Section 6, Subparagraph (c), assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may and shall be abated as to individual Lots, as provided in Article III, Section 8, above.

Section 15. 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 assessments shall be and become a lien as of the date such amounts first become due and payable.

Section 16. Effect of Nonpayment of Assessments and Remedies of the Association

Any installment of dues or assessments that is not paid within ten (10) days of when due shall be subject to a late payment fee equal to the lesser of \$25 or 5% of the delinquent amount. Any installment of dues or assessments which is not paid within thirty (30) days of 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, 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 non-use 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.

Section 17. 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 construction of a Dwelling Unit or 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 IV.

EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted herein, hereby reserves unto itself, its successors and assigns, and grants to the Association and any other persons or entities hereinafter set forth, easements on, upon, over, across, through and under the Property as described in this Article IV. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Project, including, but not limited to, easements in favor of Declarant, the SID, the Association, the Owners, and all their family members, guests, invitees and tenants and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified. Unless otherwise specified in this Article IV, all easements reserved and granted herein shall be non-exclusive and shall be perpetual in duration notwithstanding the termination or expiration of the term of this Declaration.

Section 1. Use of Common Areas.

Subject to any rules, regulations and restrictions on use as set forth in this Declaration or in rules and regulations hereafter imposed by the Association, Declarant grants and reserves an easement in favor of Declarant, the Association, the Owners and all their family members,

guests, invitees and tenants for ingress and egress and to otherwise travel across and use the Common Areas and Common Facilities on a non-exclusive basis.

Section 2. Right of the Association and Declarant to Enter Upon the Common Areas and Maintenance Areas.

Declarant hereby reserves for the benefit of itself, , and grants to the Association and all agents, contractors, employees or other designees of Declarant or the Association, an easement for ingress, egress and access to enter upon or over the Common Areas, Maintenance Areas and Common Facilities for the purposes of inspecting any construction, proposed construction, or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of the Common Areas, Maintenance Areas and Common Facilities. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas, Maintenance Areas and Common Facilities now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited.

Section 3. Easements Regarding Trail System.

Declarant hereby reserves, for the benefit of itself, its agents, contractors and employees, , and grants to the Association, its agents, employees, and contractors, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, an easement to travel on and across by pedestrian (unless otherwise noted), over and across any and all portions of the Trail System, including those portions of the Trail System which intersect or cross any portion of any Lot located within the Property.

Section 4. Maintenance Areas.

Declarant hereby reserves, for the benefits of itself, its agents, contractors and employees, and grants to the Association, its agents, contractors and employees, easements as follows:

- a) An Easement for the purposes of landscaping and maintaining entryways and erecting and maintaining entrance monument(s) for the Project, including the right to erect and maintain entrance monument(s) thereon bearing the name of the Project, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other Improvements typically used for entryways.
- b) An Easement for the installation, maintenance, repair and removal of Improvements in easement areas within of the Project.
- c) An Easement for the installation, maintenance, repair or removal of any portion of the Trail System.

Section 5. Easements for Common Driveways.

Certain groups of Lots in the Project may be served by Common Driveways, as herein defined, which will run over and across certain areas of the Property, as hereinafter described. Lots which are part of a group which will be served by a Common Driveway and are therefore, subject to the provisions on this Section 7.

Each group of Lots within each Common Driveway Lot Group, and Lots within an Optional Common Driveway Lot Group whose Owners have unanimously chosen to be served by a Common Driveway, shall herein be referred to as a "Group." All Common Driveways must receive prior approval from Declarant with respect to specific locations.

Owners in Groups shall have the obligation to have such Lots be served by a Common Driveway and must use only the Common Driveway serving such Group as its means of access to a public Roadway. The Lots included in the aforementioned categories are as follows:

- a) "Common Driveway Lot Group" shall mean: Group 1: Lots 22, 23 and 24; and
Group 2: Lots 83, 84 and 85
- b) "Optional Common Driveway Lot Group" shall mean:
 - a. Lots 71, 72 and 73

Declarant hereby reserves, for the benefit of itself, its agents, employees, designees, successors and assigns, and grants to the Association, its agents, employees, designees, successors and assigns, and to each Owner of a Lot in a particular Group, their family members, guests, invitees, tenants, successors and assigns, a perpetual non-exclusive easement over, across and under the Common Driveway for vehicular and pedestrian ingress to and egress from the Roadway to the private drive area constructed on a Lot, such area being referred to as the "Common Driveway Easement Area".

The Owner of each Lot within an "Optional Common Driveway Lot Group" shall each pay for 1/3 of the cost of construction of that Group's Common Driveway. The Owner of each Lot in a Group shall cooperate in providing for the maintenance, repair, and replacement of the Common Driveway and shall have the right to install utility lines within the Common Driveway Easement to service its Lot, provided, that any such work shall be carried out in such a way so as not to interfere with the other Owners' reasonable use of the Common Driveway. Any Owner performing utility installation work and causing disturbance to the pavement, concrete, landscaping or other features of the Common Driveway, or to other property in the Project, shall repair the same to its condition prior to such work. The expense for the maintenance, repair and replacement of the Common Driveway shall be apportioned pro rata amongst the Lots in a Group, pro rata being a fraction, the numerator of which is one (1), and the denominator being the number of Lots in the Group.

Section 6. Utility and Drainage Easements.

Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along a five (5) feet-wide strip of land adjacent to the front of all Lots, and those areas of Lots adjacent to a Roadway. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage.

Section 7. Declarant's Right to Assign Easements, Maintenance of Easement Areas.

Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Notwithstanding the above, the Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot.

Section 8. Easement Reserved for the Association and Declarant.

An easement for access, ingress and egress over upon and across the Lots is hereby reserved by Declarant for itself and granted to the Association to perform their respective rights, duties and obligations under this Declaration.

Section 9. Other Easements.

Other easements are provided for in the final plat of The Sanctuary which is filed in the Register of Deeds of Douglas County, Nebraska.

ARTICLE V.

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General.

Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including without limitation, site preparation on any Lot, change in grade or slope of any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges walls and other structures, and landscaping, or any cutting of trees on any Lot or Common Area or Maintenance Area, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Article II hereof, until Declarant has approved the plans and specifications therefore and the location of such Improvements and has given its approval for commencement of construction.

In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regards to various sections of the Property. Except has otherwise expressly provided herein, the provisions of this Article V shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas or Maintenance Areas.

Section 2. Architecture of Dwelling Units and Structures.

- a) All foundations shall be constructed of concrete, concrete blocks, brick or stone. All foundation walls which are exposed shall be constructed of, or faced with, brick or other material approved in writing by Declarant.
- b) All driveways must be constructed of concrete, brick, paving stone, laid stone or other materials approved by Declarant.
- c) Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant.
- d) The roof of all Improvements shall be covered with Heritage II style asphalt shingles or equivalent type shingles, or other material approved in writing by Declarant. Hardboard, pressed wood, bonded wood and the like will not be approved by Declarant for coverage of any roof.
- e) Improvements on any Lot shall not be erected and or maintained outside of the approved Building Envelopes or in the building setbacks of such Lot.

Section 3. Landscape

- a) Landscaping shall be installed during the first available planting season following substantial completion of the Dwelling Unit. All landscaping described within this Article shall be completed within one (1) year from the date that construction of the Dwelling Unit was commenced.
- b) The uncovered portions of any Lot disturbed by construction shall be covered with sod, except that back yards not exposed to the street may be seeded in those grasses native to the Property.
- c) No fewer than three (3) trees, each not less than three (3) caliper inches in diameter, shall be planted in the front yard of each Dwelling Unit.
- d) Each Dwelling Unit shall be landscaped with a mixture of plant materials consisting of a representative sample of shade trees, ornamental trees, evergreen trees, evergreen shrubs, deciduous shrubs and perennials/groundcovers. Red cedar or other invasive species of trees shall not be permitted.
- e) Selected plant material should provide a variety of form, shape and color through the entirety of the year.
- f) The Owner of a Lot shall maintain in good health any applicable street plantings on such Lot. Any such plantings which die, or are in an unhealthy and/or unsightly condition, must be replaced, with prior approval of Declarant, with an equivalent variety and size at the expense of the Owner of such Lot. If such replacement does not occur in a timely fashion, such plantings may, following thirty (30) days notice to the Owner, be replaced at the discretion of Declarant and at the expense of the Owner.

ARTICLE VI.
LOT RE-SALES AND BUYBACK

Section 1. Applicability of Lot Re-Sales.

Except for sales and conveyances by Declarant, no Lot (whether improved or unimproved) may be sold by any Owner except in compliance with the provisions of this Article VI.

Section 2. Right of First Refusal.

- a) Before any Undeveloped Lot (or any ownership therein) may be sold to any Person other than Declarant, the Owner of such Undeveloped Lot shall first deliver to Declarant an offer in writing to sell the Undeveloped Lot to Declarant or its successors for the Original Purchase Price plus 3% annum from the date of closing of the original purchase (an "Offer Notice"). The Offer Notice shall include the Owner's address, a copy of the bona fide offer to purchase the Undeveloped Lot and shall indicate that Owner is offering the said Lot for sale to Declarant pursuant to this right of first refusal. If Declarant or its successors does not accept or reject in writing said offer of sale within thirty (30) days from the date of receipt of the Offer Notice, then the Owner or Owners of such Undeveloped Lot shall have the right to sell the said Lot to the third party making such bona fide offer pursuant to and in accordance with the terms of such bona fide offer, without any further additional obligation to offer the said Lot to Declarant. Declarant shall have this right of first refusal with regard to each bona fide offer which an Owner receives for the purchase of an Undeveloped Lot. Any Owner who buys an Undeveloped Lot from another Owner shall be governed by the provisions of this Article and the failure to exercise or rejection of the right of first refusal with respect to any Offer Notice shall not limit Declarant's rights of first refusal with respect to any subsequent proposed sale of any Undeveloped Lot. Provided, however, the right of first refusal reserved by Declarant pursuant to this Article VI, Section 2 shall be valid and enforceable with respect to any Undeveloped Lot only for a period of fifteen (15) years from the date of the conveyance of such Undeveloped Lot from Declarant to an Owner other than Declarant, and upon the expiration of said fifteen (15) year period, the Owner or Owners of such Lot shall have the right to sell the Undeveloped Lot to any third party without the obligation to offer the Lot to Declarant. Further provided that this Article VI, Section 2 shall not be applicable with respect to any foreclosure sale of a first lien deed of trust or first lien mortgage on a Lot or deed in lieu thereof which is made and delivered in good faith. In each instance where an Offer Notice is delivered to Declarant by an Owner, Declarant shall determine in its sole discretion and on a case by case basis whether to exercise its right of first refusal, and such determination may be made on such basis and for any reason as Declarant in its sole discretion shall choose. Should an Owner fail to comply with the provisions of this Article VI, Section 2 and sell an Undeveloped Lot without delivering an Offer Notice to Declarant in accordance with the terms hereof, then the purchaser of such Lot shall purchase such Lot subject to the right of first refusal herein granted, and Declarant shall thereafter at any time have the right to purchase such

Lot according to the provisions of this Article, whether or not it is subsequently improved, from the purchaser thereof at the price as set forth in this Article VI, Section 2, and shall also be entitled to any other rights and remedies available at law or in equity for the violation of this Article VI, Section 2.

- b) The personal representative, heirs, successors and assigns of any Owner who dies while owning an Undeveloped Lot, or the donee of a gift of an Undeveloped Lot from an Owner, shall become an Owner subject to the terms and conditions of this Declaration and any subsequent sale, transfer and conveyance of such Lot shall be governed by the provisions of this Article.
- c) In the event that Declarant exercises its right of first refusal pursuant to Article VI, Section 2(a) above, the closing of the conveyance of such Lot shall occur within thirty (30) days after receipt by the Owner of written notice from Declarant or its successors that it elects to exercise its right of first refusal with respect to such Lot. At closing, Declarant shall make payment to such Owner of the purchase price. The Owner shall deliver to Declarant a warranty deed conveying fee simple marketable title to the Lot free and clear of all liens and encumbrances except those that existed immediately prior to the time of the acquisition of the Lot by such Owner, the lien of ad valorem taxes for the current year and any other liens and encumbrances which may be approved by Declarant. In the event the closing occurs after the death of an Owner, Declarant may, in its discretion, require the personal representative of the Owner to post such bonds or other assurances as Declarant may deem reasonable in order to protect Declarant from any loss which might be caused by the failure to pay any federal or state inheritance tax or the failure to pay the claims of any creditors who may have a lien on the Lot superior to Declarant's rights as a purchaser of said Lot.
- d) The right of first refusal reserved by Declarant in this Article VI, Section 2 shall run with the title to each Lot in the Project and be binding upon each purchaser of a Lot from Declarant and upon any subsequent Owner of a Lot, whether such Owner purchased such Lot from Declarant or from a third party. The provisions of this Article VI, Section 2 shall constitute record notice to all purchasers of Lots in the Project of the right of first refusal herein reserved, and no additional language in any deed of conveyance of a Lot and no recording of any additional instrument shall be required to make all Owners of Lots in the Project subject to the provisions of this Article VI, Section 2.

Section 3. Right of Reverter.

- a) Should any Lot remain an Undeveloped Lot for two (2) years from the date of closing of the purchase of a Lot from Declarant (the "Purchase Option Date"), whether or not such Lot has been repurchased by any subsequent parties, the Declarant shall have the right, but not the obligation, to purchase such Lot from the Owner for a period of three (3) years from the Purchase Option Date, while the Lot remains an Undeveloped Lot. The Price at which the Undeveloped Lot may be repurchased under this Article VI, Section 3 shall equal the Original Purchase Price plus 3% per annum from the date of closing of the original purchase. In the event that Declarant desires to repurchase a Lot under the

provisions of this Article VI, Section 3, Declarant shall deliver notice of exercise of such right to Owner.

- b) In the event that Declarant exercises its right to purchase a Lot pursuant to Article VI, Section 3 a) above, the closing and transfer of title shall occur in accordance with the same procedures and requirements as set forth in Article VI, Section 2 c) above.
- c) The option to purchase reserved by Declarant in this Article VI, Section 3, shall run with the title to each Lot in the Project and be binding upon each purchaser of a Lot from Declarant and upon any subsequent Owner of a Lot, whether such Owner purchased such Lot from Declarant or from a third party. The provisions of this Article VI, Section 3 shall constitute record notice to all purchasers of Lots in the Project of the option to purchase reserved, and no additional language in any deed of conveyance of a Lot and no recording of any additional instrument shall be required to make all Owners of Lots in the Project subject to the provisions of this Article VI, Section 3.

ARTICLE VII. GENERAL PROVISIONS

Section 1. Duty of Maintenance.

Except for those portions, if any, of a Lot which the Association may elect to maintain to repair hereunder, the Owner of any Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, and otherwise in a well-maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots, shall include, but shall not be limited to, the following:

- a) Prompt removal of all litter, trash, refuse, and waste;
- b) Keeping land, including lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;
- c) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's Lot; and
- d) Complying with all governmental requirements.

In addition, such maintenance, as to improved Lots, shall include, but shall not be limited to, the following:

- 1) Lawn mowing on a regular basis;
- 2) Tree and shrub pruning;

- 3) Watering by means for a lawn sprinkler system and/or hand watering as needed;
- 4) Keeping exterior lighting and mechanical facilities in working order;
- 5) Keeping lawn and garden areas alive;
- 6) Removing and replacing any dead plant material;
- 7) Maintenance of natural areas and landscaping according to the provisions in this Declaration;
- 8) Keeping parking areas and driveways in good repair;
- 9) Repainting of Improvements;
- 10) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with provisions in this Declaration) or remove such damaged Improvements and restore Lot to its condition existing prior to the construction of such Improvements; and
- 11) Maintain, in accordance with the terms hereof, any Common Area and/or Maintenance Area located within the boundaries of an Owner's Lot, to the extent such Common Area and/or Maintenance Area is not maintained by the Association as provided in this Declaration.

Section 2. Powers.

Except for the authority and powers specifically granted to the Declarant, the Declarant, the Association, 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, Association 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 3. Duration.

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 of recording of this Declaration. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than sixty percent (60%) of the Lots covered by this Declaration. Provided however, that no amendment of any provisions of this Declaration regarding the maintenance

agreement required by Article III, Section 6 d), shall be made without the advance written consent of the City of Elkhorn or any successor governmental authority with zoning jurisdiction.

Section 4. Changes and Amendments.

By written consent of the Declarant for a period of ten (10) 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 the Project 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 Section, or as a result of any act or failure to act by Declarant with respect to any requested waiver, modification, or amendment.

Section 5. Termination of Status.

Declarant, or its successor 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, the Declarant may appoint a successor, or in the absence of such appointment 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.

Section 6. Notices.

Any notices required herein to be delivered to an Owner shall be deemed sufficient if personally delivered to an Owner or if deposited in the United States Mail, by certified or registered mail, prepaid and addressed to the Owner at the residential address assigned to the Owners Lot. The effective date of notices shall be the date of delivery if personally delivered or the date of mailing if mailed. Any notice delivered to Declarant shall be addressed as follows:

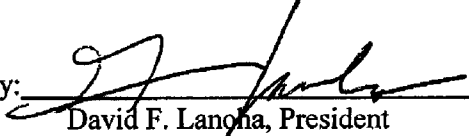
David F. Lanoha
c/o Lanoha Real Estate Company Inc.
19111 W. Center Road
Omaha, NE 68130

Section 7. Miscellaneous.

Invalidation of any covenant or provision in this Declaration by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect. Time is of the essence for purposes of this Declaration.

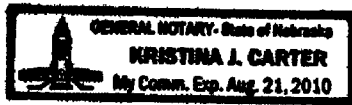
IN WITNESS WHEREOF, the Declarant has caused these present to be executed this 25th day of September, 2006.

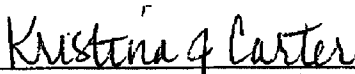
LANOHA REAL ESTATE COMPANY INC., a
Nebraska corporation f/k/a Lanoha Development, Inc.

By: 
David F. Lanoha, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 25th day of September, 2006, by David F. Lanoha as President of LANOHA REAL ESTATE COMPANY INC., a Nebraska corporation, f/k/a Lanoha Development, Inc., for and on behalf of the corporation.




Notary Public

00264169v.3



MISC 2008052099



MAY 27 2008 15:25 P 2

Misc
 2 FEE 61.00 FB 000-34543
 BKP _____ C/O _____ COMP JB
 102 DEL _____ SCAN _____ FV _____

Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
 5/27/2008 15:25:08.47



2008052099

**FIRST AMENDMENT TO
 DECLARATION OF COVENANTS,
 CONDITIONS, RESTRICTIONS AND EASEMENTS
 FOR THE SANCTUARY**

This First Amendment is made to the Declaration of Covenants, Conditions, Restrictions and Easements for The Sanctuary, dated September 25, 2006, and recorded with the Douglas County Register of Deeds on September 29, 2006, as Instrument No. 2006110905, Miscellaneous Records (the "Declaration"), by Lanoha Real Estate Company, Inc., a Nebraska corporation (the "Declarant").

Preliminary Statement

The Declaration was made by the Declarant in connection with the development of real estate legally described as follows:

Lots 1 through 94, inclusive, in The Sanctuary, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (referred to collectively as the "Lots" and individually as each "Lot");

and

Outlots "A" through "H" inclusive, in The Sanctuary, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (collectively the "Outlots")

Declarant has considered amendment of the Declaration for purposes of amending Article I, Section 26, and adding a new subparagraph g) to Article V, Section 3. Article VII, Section 3, allows the Declarant to amend the Declaration in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date of the Declaration. Declarant has investigated the impact which the proposed amendment and modification of the Declaration would have on the Lots and Outlots and has concluded that the amendment and modification would further the preservation of The Sanctuary, would further the maintenance of the character and residential integrity of The Sanctuary, and would further the benefits and protection afforded to the Lots and Outlots by the Declaration.

Return to:
 James D. Buser
 Parsing Hogan Ernst & Bachman, LLP
 10250 Regency Circle, Suite 300
 Omaha, Nebraska 68114

101980

NOW, THEREFORE, pursuant to the authority granted to the Declarant in Article VII, Section 3 of the Declaration, Declarant hereby amends and supplements the Declaration as follows:

- 1. Article I, Section 26 is hereby amended and replaced in its entirety as follows:

Section 26 "Undeveloped Lot"

Shall mean and refer to any Lot on which the construction of a Dwelling Unit has yet to commence.

- 2. There is added to the Declaration a new Article V, Section 3, subparagraph g), as follows:

g) To protect the consistency and quality of the general appearance of the Project, Lanoha Nurseries, a company that is affiliated with the Declarant, shall be the exclusive provider of landscaping services for The Sanctuary, including, but not limited to, typical Lot landscaping services such as plant material, walls, walks and patios, unless otherwise approved by Declarant.

- 3. Except as amended and modified herein the Declaration shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, Declarant has executed this First Amendment as of the 22nd day of May, 2008.

LANOHA REAL ESTATE COMPANY INC., a
Nebraska corporation

By: [Signature]
David F. Lanoha, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 22nd day of May, 2008, by David F. Lanoha as President of LANOHA REAL ESTATE COMPANY INC., a Nebraska corporation, for and on behalf of the corporation.

Kristina J. Carter
Notary Public

