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BOOK 861 PAGE 643

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GEORGE J. DUBOIS  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBR.

DECLARATION OF  
PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR LAKE CUNNINGHAM HILLS SUBDIVISION

The undersigned, TOD COMPANY, a Nebraska corporation, (hereinafter referred to as "Developer"), the owner of the following described real property in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, does hereby create, adopt, declare and establish the following restrictions upon the following described real properties:

Lots 27 through 120, inclusive, 132 through 153, inclusive, 178 through 210, inclusive, 218 through 289, inclusive, in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

1. Permitted Uses. No lot shall be used except for residential purposes, schools or churches. No homes shall be erected, altered, placed or permitted to remain on any lot other than detached single-family dwellings not to exceed two stories in height. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance. Dwellings or structures constructed in any other location shall not be moved onto any lot within the Lake Cunningham Hills Subdivision unless specifically approved by the hereinafter mentioned Architectural Control Committee.
2. Setbacks and Sidelawns. All setbacks, sidelawns and rear yard requirements shall conform to applicable laws and ordinances.
3. Temporary Structures. No structure of a temporary character, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. Any exterior air conditioning condensing units or heat pump units shall be placed in the rear or side yard of the dwelling.
4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats, or household pets, provided that they are not kept, bred or maintained for any commercial purposes and provided, that they are kept confined to the Lot of the Owner.
5. Area. No building shall be created, altered, placed or permitted to remain on any lot except detached single-family dwellings not to exceed two stories in height nor containing finished living areas, exclusive of porches, breezeways, carports and garages, of less than 1,050 square feet. Each house shall have either a built-in or attached garage of adequate size to accommodate no less than two (2) cars, side by side. Driveways shall be of concrete or other materials approved by the Architectural Control Committee described herein.
6. Landscaping. Upon completion of the construction of the house, the front and side yards shall be sodded and the rear yard shall be sodded or seeded. There shall be a minimum of one tree planted on the lot upon completion of the house.
7. Ground Water Drainage. The Developer has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or lots.
8. Weeds. The title holder of each lot, vacant or improved, shall keep his lot or lots free from weeds and debris. Each Lot shall be maintained level and smooth enough for machine mowing. No vegetation on any lot shall be allowed to reach more than a maximum height of twelve (12) inches.
9. Conform to Zoning. All structures, including driveways, sidewalks and patios placed upon the above property shall conform to the zoning requirements of the City of Omaha and the building code requirements of the City of Omaha.
10. Removal of Debris. During and after completion of the construction of any dwelling house or building on the above lots, the construction debris must be removed from the area of the Lake Cunningham Hills Subdivision. No owner, builder, subcontractor or occupant of any dwelling house within the Lake Cunningham Hills Subdivision shall place, burn or dispose of any trash, refuse, paper, concrete truck cleanings, earth or other items on any lots in the Lake Cunningham Hills Subdivision. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other lots in the subdivision.
11. Signs. No advertising sign or posters of any kind shall be erected or placed on any of said Lots, except for residential "For Sale" signs, not exceeding six (6) square feet in size, shall be permitted. Provided further, that such restriction as to signs shall not apply to any sign erected by the Developer, or his agents, in Lake Cunningham Hills or other signs approved by the Architectural Control Committee in writing.

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A. No dwelling, fence, other than fences constructed by Developer, wall, pathway, driveway, patio, treehouse, swimming pool, television or radio antenna, satellite dishes, flag pole, solar collecting panels or equipment, tool sheds, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered, or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation, or tree removal be commenced without express written prior approval of the Developer through its Architectural Control Committee, or its permission by implied approval procured in the manner set forth below.

B. The Developer, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction, size and suitability for residential purposes as part of its review procedure. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

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

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

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

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

16. Cable Television Line Easements. A perpetual license and easement is hereby reserved in favor of the Developer, its successors and assigns, to erect, operate, maintain, repair and renew, or contract for the erection, installation, operation, maintenance and repair of underground conduit, wires and/or cable for the carrying and transmission of cable television service over, upon, and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lot in said subdivision, said license is granted for the use and benefit of all present and future owners of lots in said subdivision.

17. Power and Telephone Easements. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, their successors and assigns, to erect, operate, maintain, repair and renew underground conduit and wires for the carrying and transmission of electric current for light, heat and power, and for all telephone, telegraph and message service over, upon and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lots in said subdivision; said license is granted for the use and benefit of all present and future owners of lots in said subdivision; provided, however, that said side lot easement is granted upon the specific condition that if both of said utility companies fail to construct underground conduit and wires along any of said lot lines within forty-eight (48) months of the date hereof, or if any underground conduits and wires are constructed but are thereafter removed without replacement within sixty (60) days after their removal, such side lot easement shall automatically terminate as to such unused or abandoned easement ways and provided further, the above easement is subject to the right of Developer to install or contract for the installation of lines for cable television with the above described easement area as set forth in paragraph 16. above.

18. Telephone Company. In the event that ninety percent (90%) of all the lots in Lake Cunningham Hills described herein are not improved within five (5) years from the date that Northwestern Bell Telephone Company or its successors or assigns shall have completed the installation of its distribution system for said lots and filed notice of such completion ("Five Year Term"), then every lot that is unimproved at the end of the Five Year Term shall be subject to a charge of Four Hundred Fifty Dollars (\$450.00) by Northwestern Bell Telephone Company or its successors or assigns. A lot shall be considered as unimproved if construction of a permanent structure has not commenced on that lot. Construction shall be considered as having commenced if a footing inspection has been made on the lot in question by officials of the City or other appropriate governmental authority.

Each development phase shall be considered separately in determining whether ninety percent (90%) of the lots within that Phase have been improved within the Five Year Term. All lots described herein, together, shall be considered a separate phase. In determining the date

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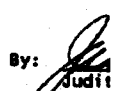
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person or persons violating or attempting to violate any such covenant or restriction, and either prevent him or them from so doing or to recover damages for such violation.

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

21. Duration. The covenants and restrictions herein contained shall run with the land, and shall be binding upon all persons for a period of twenty-five (25) years from the date hereof, after which time said covenants shall automatically be extended for a successive period of ten (10) years unless an instrument terminating these covenants and restrictions signed by the then owners of two-thirds (2/3) of the lots has been recorded prior to the commencement of any ten (10) year period.

22. Enforcement by Developer. Nothing herein contained shall in any way be construed as imposing upon the Architectural Control Committee, the Developer or any of the undersigned any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

23. Assignment by Developer. The rights, powers and responsibilities of the Developer and Architectural Control Committee as outlined and contained in this Agreement may be assigned and delegated by them.

24. Amendments. For a period of five (5) years following the date hereof, the Developer shall have the right to amend, modify or supplement all or any portion of these Protective Covenants from time to time by executing and recording one or more duly acknowledged Amendments to Protective Covenants in the Office of the Register of Deeds, Douglas County, Nebraska. Except as provided in the foregoing sentence, these Covenants and Restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

25. Waiver for Just Cause. Until such time as all lots are improved, the Architectural Control Committee shall have the right in its discretion to waive any one or more of the covenants, conditions or restrictions herein contained for just cause. The waiver must be in writing and executed by the Architectural Control Committee.

IN WITNESS WHEREOF, TOD COMPANY, a Nebraska corporation, being the owner and Developer of all said real estate described herein, in Lake Cunningham Hills, has executed these Covenants this 1st day of September, 1988.

TOD COMPANY, a Nebraska corporation

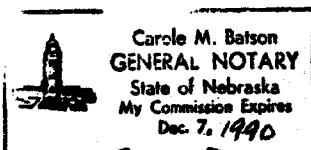
By: Judith C. Morgan  
Judith C. Morgan, President

ATTEST:  
Clair H. Morgan

STATE OF NEBRASKA )  
                          )  SS.  
COUNTY OF DOUGLAS )

On this 1st day of September, 1988, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally came Judith C. Morgan, President of TOD COMPANY, a Nebraska corporation, to me personally known to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be her voluntary act and deed as such officer, and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the day and year above written.



Carole M. Batson  
Notary Public

BOOK 851 PAGE 749

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GEORGE J. DODD  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBRASKA

AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR LAKE CUNNINGHAM HILLS SUBDIVISION  
f/k/a NORTH LAKE HILLS SUBDIVISION

The undersigned, TOD Company, a Nebraska corporation, (hereinafter referred to as "Developer"), pursuant to Paragraph No. 24 of the Declaration of Protective Covenants, Conditions and Restrictions for the North Lake Hills Subdivision, now known as the Lake Cunningham Hills Subdivision, which Protective Covenants were dated August 13, 1987 and recorded on August 17, 1987 in Book 824, Pages 104-107, inclusive, in the Miscellaneous Records of the Register of Deeds, Douglas County, Nebraska (hereinafter referred to as the "Protective Covenants"), do hereby amend said Protective Covenants as follows:

1. That the legal description set forth in the first paragraph of the Protective Covenants is hereby amended and changed to the following legal description:

Lots 1 through 26, inclusive, 121 through 131, inclusive, 154 through 177, inclusive, 211 through 217, inclusive and Lot 290, in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

2. Except as amended and changed herein, the remainder of the provisions of the Protective Covenant shall remain the same.

IN WITNESS WHEREOF, TOD Company, a Nebraska corporation, being the Developer, has executed this Amendment on this 21st day of April, 1988.

Attest:

TOD COMPANY, a Nebraska corporation, Developer,

W. F. Morrison

By: Judith C. Morgan  
Its: President

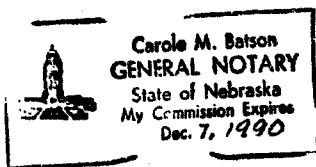
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STATE OF NEBRASKA )  
                          ) SS.  
COUNTY OF DOUGLAS )

On this 21<sup>st</sup> day of April, 1988,  
before me, a notary public duly commissioned and qualified in and  
for said county and state, personally came Judith C. Morgan,  
President of TOD Company, a Nebraska corporation, to me  
personally known to be the identical person who signed the  
foregoing instrument, and acknowledged the execution thereof to  
be her voluntary act and deed as such officer, and the voluntary  
act and deed of said corporation.

Witness my hand and notarial seal the day and year above  
written.



Carole M. Batson  
Notary Public

BOOK 861 PAGE 643

1988 SEP 13 AM 11:37

GEORGE J. DUBOIS  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBR.

DECLARATION OF  
PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR LAKE CUNNINGHAM HILLS SUBDIVISION

The undersigned, TOB COMPANY, a Nebraska corporation, (hereinafter referred to as "Developer"), the owner of the following described real property in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, does hereby create, adopt, declare and establish the following restrictions upon the following described real properties:

Lots 27 through 120, inclusive, 132 through 153, inclusive, 176 through 210, inclusive, 218 through 289, inclusive, in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

1. Permitted Uses. No lot shall be used except for residential purposes, schools or churches. No homes shall be erected, altered, placed or permitted to remain on any lot other than detached single-family dwellings not to exceed two stories in height. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance. Dwellings or structures constructed in any other location shall not be moved onto any lot within the Lake Cunningham Hills Subdivision unless specifically approved by the hereinafter mentioned Architectural Control Committee.

2. Setbacks and Sideyards. All setbacks, sideyards and rear yard requirements shall conform to applicable laws and ordinances.

3. Temporary Structures. No structure of a temporary character, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. Any exterior air conditioning condensing units or heat pump units shall be placed in the rear or side yard of the dwelling.

4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats, or household pets, provided that they are not kept, bred or maintained for any commercial purposes and provided, that they are kept confined to the lot of the Owner.

5. Area. No building shall be created, altered, placed or permitted to remain on any lot except detached single-family dwellings not to exceed two stories in height nor containing finished living areas, exclusive of porches, breezeways, carports and garages, of less than 1,050 square feet. Each house shall have either a built-in or attached garage of adequate size to accommodate no less than two (2) cars, side by side. Driveways shall be of concrete or other materials approved by the Architectural Control Committee described herein.

6. Landscaping. Upon completion of the construction of the house, the front and side yards shall be sodded and the rear yard shall be sodded or seeded. There shall be a minimum of one tree planted on the lot upon completion of the house.

7. Ground Water Drainage. The Developer has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or lots.

8. Weeds. The title holder of each lot, vacant or improved, shall keep his lot or lots free from weeds and debris. Each lot shall be maintained level and smooth enough for machine mowing. No vegetation on any lot shall be allowed to reach more than a maximum height of twelve (12) inches.

9. Conform to Zoning. All structures, including driveways, sidewalks and patios placed upon the above property shall conform to the zoning requirements of the City of Omaha and the building code requirements of the City of Omaha.

10. Removal of Debris. During and after completion of the construction of any dwelling house or building on the above lots, the construction debris must be removed from the area of the Lake Cunningham Hills Subdivision. No owner, builder, subcontractor or occupant of any dwelling house within the Lake Cunningham Hills Subdivision shall place, burn or dispose of any trash, refuse, paper, concrete truck cleanings, earth or other items on any lots in the Lake Cunningham Hills Subdivision. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other lots in the subdivision.

11. Signs. No advertising sign or posters of any kind shall be erected or placed on any of said lots, except for residential "For Sale" signs, not exceeding six (6) square feet in size, shall be permitted. Provided further, that such restriction as to signs shall not apply to signs which are attached to the building or are attached to the building.

A. No dwelling, fence, other than fences constructed by Developer, wall, pathway, driveway, patio, treehouse, swimming pool, television or radio antenna, satellite dishes, flag pole, solar collecting panels or equipment, tool sheds, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered, or otherwise maintained or permitted to remain on any lot, nor shall any grading, excavation, or tree removal be commenced without express written prior approval of the Developer through its Architectural Control Committee, or its permission by implied approval procured in the manner set forth below.

B. The Developer, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction, size and suitability for residential purposes as part of its review procedure. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

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

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

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

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

16. Cable Television Line Easements. A perpetual license and easement is hereby reserved in favor of the Developer, its successors and assigns, to erect, operate, maintain, repair and renew, or contract for the erection, installation, operation, maintenance and repair of underground conduit, wires and/or cable for the carrying and transmission of cable television service over, upon, and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lot in said subdivision, said license is granted for the use and benefit of all present and future owners of lots in said subdivision.

17. Power and Telephone Easements. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, their successors and assigns, to erect, operate, maintain, repair and renew underground conduit and wires for the carrying and transmission of electric current for light, heat and power, and for all telephone, telegraph and message service over, upon and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lots in said subdivision; said license is granted for the use and benefit of all present and future owners of lots in said subdivision; provided, however, that said side lot easement is granted upon the specific condition that if both of said utility companies fail to construct underground conduit and wires along any of said lot lines within forty-eight (48) months of the date hereof, or if any underground conduits and wires are constructed but are thereafter removed without replacement within sixty (60) days after their removal, such side lot easement shall automatically terminate as to such unused or abandoned easement ways and provided further, the above easement is subject to the right of Developer to install or contract for the installation of lines for cable television with the above described easement area as set forth in paragraph 16. above.

18. Telephone Company. In the event that ninety percent (90%) of all the lots in Lake Cunningham Hills described herein are not improved within five (5) years from the date that Northwestern Bell Telephone Company or its successors or assigns shall have completed the installation of its distribution system for said lots and filed notice of such completion ("Five Year Term"), then every lot that is unimproved at the end of the Five Year Term shall be subject to a charge of four Hundred Fifty Dollars (\$450.00) by Northwestern Bell Telephone Company or its successors or assigns. A lot shall be considered as unimproved if construction of a permanent structure has not commenced on that lot. Construction shall be considered as having commenced if a footing inspection has been made on the lot in question by officials of the City or other appropriate governmental authority.

Each development phase shall be considered separately in determining whether ninety percent (90%) of the lots within that phase have been improved within the five Year Term. All

person or persons violating or attempting to violate any such covenant or restriction, and either prevent him or them from so doing or to recover damages for such violation.

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

21. Duration. The covenants and restrictions herein contained shall run with the land, and shall be binding upon all persons for a period of twenty-five (25) years from the date hereof, after which time said covenants shall automatically be extended for a successive period of ten (10) years unless an instrument terminating these covenants and restrictions signed by the then owners of two-thirds (2/3) of the lots has been recorded prior to the commencement of any ten (10) year period.

22. Enforcement by Developer. Nothing herein contained shall in any way be construed as imposing upon the Architectural Control Committee, the Developer or any of the undersigned any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

23. Assignment by Developer. The rights, powers and responsibilities of the Developer and Architectural Control Committee as outlined and contained in this Agreement may be assigned and delegated by them.

24. Amendments. For a period of five (5) years following the date hereof, the Developer shall have the right to amend, modify or supplement all or any portion of these Protective Covenants from time to time by executing and recording one or more duly acknowledged Amendments to Protective Covenants in the Office of the Register of Deeds, Douglas County, Nebraska. Except as provided in the foregoing sentence, these Covenants and Restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

25. Waiver for Just Cause. Until such time as all lots are improved, the Architectural Control Committee shall have the right in its discretion to waive any one or more of the covenants, conditions or restrictions herein contained for just cause. The waiver must be in writing and executed by the Architectural Control Committee.

IN WITNESS WHEREOF, TOD COMPANY, a Nebraska corporation, being the owner and Developer of all said real estate described herein, in Lake Cunningham Hills, has executed these Covenants this 1st day of September, 1988.

TOD COMPANY, a Nebraska corporation


By: Judith C. Morgan  
Judith C. Morgan, President

ATTEST:  
Clair H. Morgan

STATE OF NEBRASKA )  
                          )  ss.  
COUNTY OF DOUGLAS )

On this 1st day of September, 1988, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally came Judith C. Morgan, President of TOD COMPANY, a Nebraska corporation, to me personally known to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be her voluntary act and deed as such officer, and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the day and year above written.

 Carole M. Batsen  
GENERAL NOTARY  
State of Nebraska  
My Commission Expires  
Dec. 7, 1990

Carole M. Batsen  
Notary Public