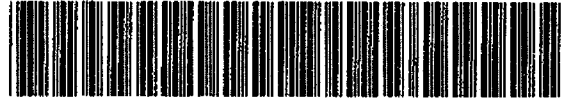


GAINES, MULLEN, PANSING &  
HOGAN  
10050 REGENCY CIRCLE, SUITE 200  
OMAHA, NEBRASKA 68114



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OMAHA, NEBRASKA 68114

**DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
OF PACIFIC SPRINGS, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, 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 29, inclusive, in Pacific Springs, 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 also the owner of certain real property located within Douglas County, Nebraska, and described as follows:

Lot 30, in Pacific Springs, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lot is referred to as the "Park Lot."

The Lots and Park Lot are situated in Pacific Springs, a residential subdivision situated in part of the SW $\frac{1}{4}$  of Section 21, T15N-R11W, 6th P.M. in Douglas County, Nebraska and herein referred to as "Pacific Springs".

The Declarant desires to provide for the preservation of the values and amenities of Pacific Springs, for the maintenance of the character and residential integrity of Pacific Springs, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Pacific Springs.

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

B 5778  
FEE 70.50 FB  
DEL. C/O COMP  
LEGAL PG SCAN

**ARTICLE I.  
RESTRICTIONS AND COVENANTS**

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or for a church, school or park, or for other non-profit use. The Park Lot is specifically declared to be nonbuildable except as provided in Article I, Section 23.

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboard, dog house, pool house, flag pole, or other external improvement, including landscaping, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

(a) An Owner desiring to erect an Improvement 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 I 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 Pacific Springs subdivision 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 Bay Shores and Autumn Ridge 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 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.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. The exposed foundation walls must be constructed of or faced with brick or other material approved in writing by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid

stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant. The roof of all Improvements shall be covered with wood cedar shakes or 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.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. The foregoing restriction in this Article I, Section 5 shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, or its agents and assigns, during the development and sale of Lots.

6. No exterior television or radio antenna, satellite receiving disc, or exterior solar heating or cooling device of any type shall be permitted on any Lot.

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

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

9. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

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

11. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fence may be installed without the prior approval of the Declarant. In all events, installed fences must comply with applicable set back requirements imposed by the City of Omaha. All fences erected on Lots with a common boundary with the Golf Lots, as defined in Article II, Section 1, must be constructed of wrought iron, and fences on non-Golf Lots must be constructed of wrought iron or wood. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant.

12. No tennis courts shall be allowed on any residential lots.

13. No swimming pool may extend more than one foot above ground level.

14. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. Grading plans must be submitted to and

approved by Declarant prior to commencement of Improvements to any Lot. Declarant shall review the grading plans in light of commercially recognized development and engineering standards.

15. Commencing with completion of construction of any Improvement on a Lot, a public sidewalk constructed of concrete five (5) feet wide by four (4) inches thick shall be installed and maintained in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed a minimum of four (4) feet and a maximum of seventeen and one-half (17.5) feet from the street curb line, in conformance with the master sidewalk plan. The sidewalk alignment shall be approved by Declarant prior to construction. After approval of the sidewalk alignment, the sidewalk shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

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

17. No stable 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. Dog houses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot. No livestock or agricultural-type animals shall be allowed in Pacific Springs subdivision, including pot-bellied pigs.

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

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

20. No temporary structure of any character, and no carport, trailer, modular home, open basement, storage or tool shed, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other non prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside Pacific Springs to any Lot without the written approval of Declarant.

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

22. 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 in accordance with Section 2 of this Article I. 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 sidewalk easement area 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 allowed hereinafter.

23. The Park Lot is hereby designated as a common area for the use, benefit, and enjoyment of the residents of Pacific Springs. The Declarant will initially construct improvements on the Park Lot generally consistent with the use of the Park Lot as a green area and landscape buffer. The only facilities and improvements which may be constructed on the Park Lot are trail paths, landscaping, boundary fencing, signage, benches, structures found in playgrounds and parks, such as pavilions, gazebos, fountains, and playground equipment, and lighting and utilities. Except as stated above, the Park Lot may not be used for any building development. Declarant may not transfer the Park Lot except to the homeowners association for Pacific Springs to be utilized consistently with the foregoing.

24. Residences on all Lots shall have a minimum front set back requirement of thirty feet (30').

ARTICLE II.  
EASEMENTS AND RESTRICTIONS  
RELATING TO GOLF COURSE

1. Declarant expects that a golf course and related amenities and facilities will be constructed, operated and maintained on property with common boundaries with the Lots (the property on which such golf course is constructed shall be referred to herein as the "Golf Lots"). Declarant anticipates that the proximity of the Lots to the Golf Lots will enhance the desirability and value of the Lots to purchasers and their successors and assigns. Nevertheless, purchasers and owners of the Lots should be aware that: (i) golfers will from time to time hit golf balls from the Golf Lots onto the Lots; and (ii) normal operation and maintenance of the golf courses will involve operation of mowers and other power equipment during the evening and early morning hours.

2. The Declarant hereby declares, grants and establishes easements on the Lots in favor of the Grantees (defined below) for: (i) intrusion of errant shots onto the Lots; and (ii) intrusion of noise from mowing and other power equipment during all hours of the day and night. For this purpose, an "errant shot" shall refer to a golf shot which is hit onto any Lot.

3. The easements granted in this Article are for the use and benefit of the owner of the Golf Lots, its successors and assigns in ownership of the Golf Lots, and any lessee, licensee, permittee or invitee of the owner of the Golf Lots, further including Evergreen Alliance Golf Limited, their successors and assigns (collectively the "Grantees"). Without limitation of the foregoing, the Grantees shall include any person or entity which contracts to operate a golf course or driving range on the Golf Lots, and any golfer who is duly authorized to play golf on the Golf Lots.

4. No Grantee shall have any liability, obligation or expense to the owner of a Lot in respect of any personal injury, bodily injury or property damage occurring as a result of an errant shot which is not: (i) negligently, intentionally or recklessly hit onto a Lot; or (ii) hit in violation of the rules established by any operator of a golf course or driving range on the Golf Lots. By accepting title to a Lot, each owner hereby covenants that it will not sue any Grantee for property damage, personal injury or bodily injury which results directly or indirectly from such an errant shot, presently or in the future. All Owners, by acceptance of delivery of a deed, assume all risks associated with errant golf balls, and all Owners agree and covenant not to make any claim or institute any action whatsoever against Declarant, the developer, the golf course designer, the golf course builder, the golf course owner, or the builder of the unit arising or resulting from any errant golf balls, any damages that may be caused thereby, or for negligent design of the golf course or siting of the unit.

5. The owner of the Golf Lots may from time to time change the configuration and layout of the golf courses or driving range on the Golf Lots. Such changes may affect the frequency, trajectory and velocity of errant shots which pass onto any individual Lot. Nevertheless, no Owner of a Lot shall have any right to object to, or

in any manner limit changes to the golf courses on the Golf Lots, and the easements granted in this Article shall remain fully effective as to all of the Lots after such changes.

6. The Golf Lots are private property. Owners of Lots and their invitees shall comply with all the rules and regulations of the operator of the Golf Lots relating to use of and play on the Golf Lots.

### ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused or will cause the incorporation of PACIFIC SPRINGS 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 Pacific Springs, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities (including common areas on Park Lot) 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); and signs and entrances for Pacific Springs. Common Facilities may be situated on property owned or leased by the Association, on Park Lot within the Pacific Springs subdivision, on private property subject to an easement in favor of the Association, on public property, or on property dedicated to a Sanitary and Improvement District.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Pacific Springs; and the protection and maintenance of the residential character of Pacific Springs.

2. Membership and Voting. Pacific Springs Phase I is divided into twenty-nine (29) separate residential lots (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

Declarant anticipates that additional phases of Pacific Springs will be developed by Declarant or other developers. From time to time, without the consent or approval of an Owner or Member, the Association may, with Declarant's approval, be expanded to include additional residential lots in any subdivision which is contiguous to any of the Lots, or which is developed as a phase of the Pacific Springs Subdivision. Such expansion(s) may be effected from time to time by recordation with the Register of Deeds of Douglas County, Nebraska, of a Declaration of Covenants, Conditions, Restrictions and Easements, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration"), provided that if the Subsequent Phase Declaration is recorded by a person or entity other than Declarant, the inclusion of additional residential lots in the Association must be approved by Declarant. Upon the recordation of any Subsequent Phase Declaration which expands the

residential lots included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Lots" for purposes of this Article III, and the owners of the additional residential lots shall be members of the Association with all rights, privileges and obligations accorded or accruing to members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

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

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks, public property, or Park Lot within or near Pacific Springs.

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

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

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

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

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

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

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

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

4. Mandatory Duties of the Association. The Association shall:

(a) Maintain and repair the signs which have or will be installed by Declarant at the residential entrance at 174th Street, 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 mixed-use lots and on and along the Park Lot, so that such are in good repair and neat condition;

(c) In the event any Owner of a Lot shall fail to perform and fulfill his obligations and responsibilities under Article I, Section 22 of this Declaration, and if such failure continues for thirty (30) days after written notice to the Owner from the Association, the Association shall 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 Article II;

(d) Maintain, repair, construct, and replace, as necessary, the wells and irrigation systems constructed by Declarant in accordance with the easements reserved in the Final Plat.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Subdivision Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. 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, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

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

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article.

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

(a) Sixty and no/100 Dollars (\$60.00) per Lot.

(b) In each calendar year beginning on January 1, 1997, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. 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,



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construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred and no/100 Dollars (\$200.00) per Lot.

11. 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.

12. Uniform Rate of Assessment. Except for assessments as provided in Article III, Section 4, Subparagraph (c), assessments and dues shall be fixed at a uniform rate as to all Lots, but dues may be abated as to individual Lots, as provided in Section 6, above.

13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessments which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

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

#### ARTICLE IV. EASEMENTS AND CHARGES

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U S West telephone company, and any company which has been granted a franchise to provide a cable television system within the Lots, Metropolitan Utilities District, and Sanitary and Improvement District No. 398 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the subdivision. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all streets; this license being granted for the use and benefit of all present and future owners of these Lots. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which U S West telephone company files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then the telephone company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by the telephone company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) the telephone company sends each owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

4. Other easements are provided for in the final plat of Pacific Springs which is filed in the Register of Deeds of Douglas County, Nebraska (Book \_\_\_\_, Page \_\_\_\_).

#### ARTICLE V. GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, or any person, firm, corporation, partnership, or entity designated in writing by LANOHA-PACIFIC DEVELOPMENT, INC., in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty percent (60%) of the Lots covered by this Declaration.

3. By written consent of the Declarant for a period of five (5) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, modified, or amended for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver, modification or amendment will have on the Pacific Springs subdivision 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.

4. LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, 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 Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

5. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

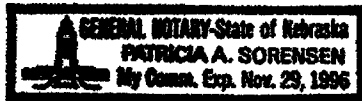
IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 17 day of May, 1996.

LANOHA-PACIFIC DEVELOPMENT, INC., a  
Nebraska corporation,

By *David F. Lanoha*  
David F. Lanoha, President

STATE OF NEBRASKA        )  
  ) ss.:  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 17 day of May, 1996, by David F. Lanoha, President of LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, on behalf of the corporation.



*Patricia A. Sorensen*  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS



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RICHARD N. TAKECHI  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS OF  
PACIFIC SPRINGS, A SUBDIVISION IN  
DOUGLAS COUNTY, NEBRASKA

FEE	R	See
DEL.	C/O	FB Below
LEGAL PG	SCAN	DC FV

This First Amendment is made to the Declaration of Covenants, Conditions, Restrictions and Easements of Pacific Springs, a subdivision in Douglas County, Nebraska, dated May 17, 1996, and recorded with the Douglas County Register of Deeds on May 23, 1996, Miscellaneous Records, in Book 1177 at Page 600 (the "Declaration"), by Lancha-Pacific Development, Inc., a Nebraska corporation (referred to as the "Declarant").

PRELIMINARY STATEMENT

The Declaration was made by the Declarant in connection with the development of Lots 1 through 29, inclusive, in Pacific Springs, 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") and Lot 30, in Pacific Springs, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (the "Park Lot"). The Lots are part of Pacific Springs, a residential subdivision in Douglas County, Nebraska ("Pacific Springs").

Lots 1 through 8, inclusive, and 14 through 20, inclusive, Pacific Springs, have been replatted into 21 individual lots as shown on the plat recorded with the Douglas County Register of Deeds on July 25, 1996, in Book 2038, Page 298 (herein the "Villas Lots").

Due to the replatting, the above-identified lots are now legally described as follows:

- Lots 9 through 13, inclusive, and 21 through <sup>28</sup>~~29~~, inclusive, Pacific Springs, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; OC-29197
- Lot 30, Pacific Springs, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; and OC-29197
- Lots 1 through 21, inclusive, Pacific Springs Villas West, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska; AND LOT 1 PACIFIC SPRINGS REPLAT 2 OC-29198

Except as specifically provided herein, for purposes of the Declaration, each of the above-identified lots shall be deemed individual lots governed by the provisions of the Declaration.

Declarant has considered amendment of the Declaration for purposes of excluding the Villas Lots from encumbrance by Article I of the Declaration. Article V, Section 2 of the Declaration 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 effect which the proposed amendment to the Declaration would have on the Lots and has concluded that the amendment would further the preservation of Pacific Springs, would further the maintenance of the character and residential integrity of Pacific Springs, and would further the benefits and protection afforded to the Lots by the Declaration.

NOW, THEREFORE, pursuant to the authority granted to the Declarant in Article V, Section 2 of the Declaration, Declarant, hereby amends and supplements the Declaration as follows:

1. The Villas Lots shall no longer be restricted or encumbered by Article I of the Declaration.
2. In each and every other respect, the Declaration shall remain in full force and effect according to its terms.
3. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

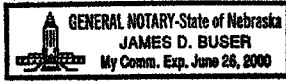
26<sup>th</sup> IN WITNESS WHEREOF, Declarant has executed this First Amendment as of the day of June, 1997.

LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, "Declarant"

By [Signature]  
David F. Lanoha, President

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of June, 1997, by David F. Lanoha, President of LANOHA-PACIFIC DEVELOPMENT, INC., a Nebraska corporation, on behalf of the corporation.



[Signature]  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS