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JOINT CHIEFS OF STAFF
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DECLARATION OF

COPIES OF THE REPORT WILL BE FORWARDED TO THE FOLLOWING:

WHEREAS, Declarants wish to impose certain restrictions, limitations and covenants upon all of said property;

ARTICLE I

1. "Association" shall mean and refer to H/A Homeowners Association, an Iowa corporation, not for profit, its successors or assigns.

3. "Common property" shall mean all real property and such personal property associated therewith as is to be owned hereunder by the Association for the common use and enjoyment of the members of the Association. The common property to be owned by the Association upon execution hereof by each Declarant is described as follows:

Pheasant Lane; Coyote Court; Hickory Hollow Court; Quail Ridge Court, Deer Trail Lane; Easements "A", "B", "C", "D", "E", "F", for roadways and public utilities, 27 foot wide frontage road and utility easements, Lot 28 of Block 1; Lots 7, 8, and 9 of Block 3; together with all surface and underground improvements thereon including the water system.

well, sewer lines and sewer disposal system and related equipment, all in "Hickory Acres" in Table Mound and Mosalem Townships, Dubuque County, Iowa, according to and as are shown by the recorded plat thereof recorded as Instrument No. 4012-78, in the Office of the Dubuque County Recorder.

4. "Lot" shall mean and refer to any Lot or plot of land as shown upon the plat of "Hickory Acres," recorded as Instrument No. 4012-78, in the Dubuque County Recorder's Office and the plat of the subdivision of Lot 21 and 22, Block 1 of "Hickory Acres" recorded as Instrument No. 8521-79, in the Dubuque County Recorder's Office and which is described opposite the Declarants' signatures hereto, or any lot created hereafter by the subdivision of any above-mentioned Lot or plot of land, or any individual Lot in any subsequent property which may be annexed, with the exception of the common property. Notwithstanding anything to the contrary herein, for purposes of this Declaration, Lot 1 of 21, and Lot 2 of 22 of Block 1 in "Hickory Acres" shall be considered as one Lot; Lot 2 of 3 and Lot 2 of 4 of Block 1 in "Hickory Acres" shall be considered as one Lot; and Lot 16 and the West $\frac{1}{2}$ of Lot 17 of Block 4 in "Hickory Acres" shall be considered as one Lot. Lot 2 of Lot 21 of "Hickory Acres" shall not be considered as a Lot for purposes of membership in the Association.

5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title or undivided fee interest to any Lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

6. "Member" shall mean and refer to a member of the H/A Homeowners Association as set forth in these Declarations.

7. "Improved Lot" shall mean any Lot upon which a dwelling ready for occupancy has been constructed or any Lot with regard to which the Board of Directors has given its architectural approval for the construction of a dwelling pursuant to Article VI hereof.

8. "Declaration" shall mean these Hickory Acres Owners Declaration of Restrictive and Protective Covenants and Conditions.

9. "Developer" shall mean K & K Building and Supply, Inc., Dyersville, Iowa.

10. "Board of Directors" or "Board" shall mean the Board of Directors of H/A Homeowners Association.

ARTICLE II

Purpose

The purpose of this Declaration is to provide for the maintenance, preservation, and architectural control of the Lots, sewer system, water system, road system and other common property within that certain tract of property known as "Hickory Acres", as shown on the plat which is recorded as Document No. 4012-78 in the Recorder's Office of Dubuque County, Iowa, as well as to provide for the health, safety, and welfare of the residents within the Properties, and any annexations or additions thereto hereafter brought within the jurisdiction of this Association.

ARTICLE III

H/A HOMEOWNERS ASSOCIATION

Section 1. Membership Required. Each person or entity who is an owner of a fee or undivided fee interest in any Lot, including a contract purchaser, shall be a member of the Association in such classes and only under such conditions as are provided in Section 2 hereof. No person or entity who holds an interest in any Lot merely as security for the performance of an obligation shall be a member. No owner shall have more than one membership in any membership class. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. Membership and Voting Rights. The Association shall have two classes of membership as follows:

a. Class A. Class A members shall be all owners of a fee or undivided fee interest in any Lot, with the exception of K & K Building and Supply, Inc., Dyersville, Iowa, Capitol Savings & Loan Association, Mt. Pleasant, Iowa, and any such owner who on or subsequent to September 1, 1983, became an owner of said Lot by direct purchase from K & K Building and Supply, Inc. Class A members shall be entitled to one vote for each Lot in which they hold the ownership interest required for Class A membership. When more than one person or entity holds such interest in any Lot, all such persons or entities shall be members. The vote for such Lots shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot, and no fractional vote shall be cast with respect to any Lot.

b. Class B. Class B members shall be all owners of a fee or undivided fee interest in an Improved Lot, with the exception of K & K Building and Supply, Inc., Dyersville, Iowa, and Capitol Savings & Loan Association, Mt. Pleasant, Iowa, who on or subsequent to September 1, 1983, became such an owner by direct purchase thereof from K & K Building and Supply, Inc., or by the direct purchase from K & K Building and Supply, Inc., of a Lot which was thereafter made an Improved Lot by and for said owner. Class B membership shall attach only as to an Improved Lot. Class B membership shall exist only until January 1, 1989, at which time all Class B members automatically become Class A members and Class B membership shall thereupon extinguish. Class B members shall be entitled to one vote for each such Improved Lot in which they hold the interest required for Class B membership. When one or more persons or entities hold such interest in any such Improved Lot, all such persons or entities shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event, shall more than one vote be cast with respect to any Lot, and no fractional vote shall be cast with respect to any Lot. Notwithstanding anything to the contrary herein, the owners

signator hereto of either Lot 1 of Block 1 or Lot 1 of Lot 3 of Block 1 of Hickory Acres in Table Mound and Mosalem Townships, Dubuque County, Iowa, as shown on Document No. 4012-78 recorded in the Dubuque County Recorder's Office shall be Class B members.

c. Board of Director Voting. Notwithstanding anything to the contrary herein, at each annual meeting of the members or at a special meeting of the members called for such purpose, Class A members, by majority vote, shall elect four directors and Class B members, if any, by majority vote, shall elect one director. Subsequent to December 31, 1988, or if on or prior to that date, there are no Class B members at the time of election, all five directors shall be elected, by majority vote, by Class A members.

Section 3. Articles and Bylaws. All other rights, duties and obligations of the Association and its members are as set forth in the Articles of Incorporation and Bylaws of the Association, which are hereby expressly adopted and agreed to by the Declarants.

ARTICLE IV

Rights Relating to Use and Enjoyment of Common Properties

Section 1. Members' Easement of Enjoyment. Every member shall have a right and easement of enjoyment in and to the common property. Such easement shall be appurtenant to and shall pass with the title to each member's Lot subject to the following:

a. The Association may, in accordance with its Articles of Incorporation and Bylaws, borrow money for the purpose of improving the common property and facilities, and may mortgage the common property in this respect. Any such mortgage shall be effective only upon written agreement of two-thirds (2/3) of the votes of the Association's members. Such agreement must be in writing and shall be effective provided that written notice of such proposed action has been sent to every member not less than ten (10) nor more than fifty (50) days prior to the date of the proposed action.

b. If any member shall fail to pay any assessment, the Association reserves the right to suspend their voting rights until such time as such assessment has been paid. The Association further reserves the right to suspend such voting rights for a period of up to sixty (60) days for any infraction of its public rules and regulations, if any.

c. The Association reserves the right to dedicate or transfer all or any part of the common property to a public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed to by the members. Any such dedication or transfer shall be effective only upon written agreement of two-thirds (2/3) of the votes of the members. Such agreement must be in writing and shall be effective provided that written notice of such proposed action has been sent to every member not less than ten (10) nor more than fifty (50) days prior to the date of the proposed action.

d. The Association may acquire by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, insure, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property of the Association in connection with the affairs of the Association. However, in the case of any conveyance, sale, transfer, dedication for public use or other disposition of real property of the Association, the same shall not be effective except upon written agreement of two-thirds (2/3) of the votes of the members. Such agreement must be in writing and shall be effective provided that written notice of such proposed action has been sent to every member not less than ten (10) nor more than fifty (50) days prior to the date of the proposed action.

e. The Association reserves the right to adopt reasonable rules and regulations relating to the use of the common property and the facilities situated thereon, and the Declarants hereby agree to abide by such rules and regulations.

Section 2. Title to the Common Property. Declarant K & K Building and Supply, Inc., hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the common property to the Association free and clear of all encumbrances and liens, contemporaneous with its execution hereof. Such conveyance shall be by warranty deed.

Section 3. Right to Delegate Use. Any member may, in accordance with the Bylaws of the Association, delegate his right of enjoyment to the common property and facilities to members of his family, or his tenants, residing on any Lot.

Section 4. Owners' Easements. Subject to the Association's easement rights and duties as hereinafter defined, each owner shall have water, sewage, and utilities' easements, and easements for access, ingress and egress as shown on the plat filed for record with the Dubuque County Recorder's Office as Document No. 4012-78. In addition, each owner shall have an easement in, over and across every other Lot as may be reasonably necessary for the installation, maintenance, alteration or addition of cable television and telephone lines serving his Lot.

Section 5. Association's Easements.

a. The Association, and such persons as may be engaged by the Association, shall have such easements, rights and duties as are shown with regard to the roadways, sewer system, and water system on the plat filed for record with the Dubuque County Recorder's Office as Document No. 4012-78 and such other easement in, over, and across any Lot as may be reasonably necessary for the maintenance, repair and access to the water, sewer and road system. The Association, its agents and the respective utility, telephone and cable television companies servicing the properties, shall have the right to enter a Lot for the purpose of maintenance and repair as it relates to all of the properties, upon reasonable notice under the then-existing circumstances.

b. Each owner shall have the duty to install, maintain, repair, replace or remove the electrical service, water pipes and lines and the sewer pipes and lines located on his Lot up to the place such service and lines connect to the main service and lines and shall have the responsibility to connect to said main service and lines and pay the costs attendant thereto.

Section 6. Capital Improvements. It is expressly understood and agreed that the Association is under no obligation or duty of any kind to any owner to make capital expenditures to extend roadways, extend water mains or lines or extend sewer mains or lines beyond those presently existing. Further, the Association is under no obligation to upgrade the roadway systems or surfaces, sewer systems or the water system.

ARTICLE V

Assessments

Section 1. Purpose of Administration. The assessments provided for in this Article V to be levied by the Association shall be used exclusively for the operation of the Association and for the operation, maintenance and repair of the common property particularly including the Association's sewer system, water system and roadways and for services and facilities related to those systems and shall generally be for the health, safety and welfare of the members.

The Board of Directors shall have exclusive responsibility for the administration of assessments.

Section 2. Regular Assessment.

a. Class A Members. As soon as practicable, and thereafter from time to time, the Board of Directors shall determine, assess and collect a regular monthly fee from all Class A members in an amount sufficient and necessary in the opinion of the Board to provide for the operation of the Association and for the operation, maintenance, repair and upkeep of the common property, including any reserves deemed necessary or desirable for potential and future expenses. All such assessments shall be billed monthly on a uniform basis in care of the member and will be payable upon terms established by the Board.

b. Class B Members. Class B members, if any, will be assessed and billed a regular monthly fee of \$35 by the Association notwithstanding any monthly assessment to Class A members less than or in excess of that amount. All such assessments shall be billed monthly in care of the member and will be payable upon terms established by the Board.

Section 3. Special Assessments. The Association may levy equally against each member a special assessment for the purpose of defraying, either in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common property or for the purposes of defraying any other extraordinary cost which is not usual and customary to the operation of the Association and to the operation, maintenance, repair and upkeep of the Association and common property.

Such assessment must have the assent of two-thirds (2/3) of the votes of the members voting either in person or by proxy at a special member meeting called for that purpose pursuant to the Association's Bylaws.

Section 4. Assessment Exception. Notwithstanding anything to the contrary herein, Lot 2 of Lot 1 of N.E. $\frac{1}{4}$ of N.E. $\frac{1}{4}$, Sec. 25, T. 88 N., R. 2 E. of 5 P.M. of Hickory Acres in Table Mound and Mosalem Townships, Dubuque County, Iowa, as shown on Document No. 4012-78 recorded in the Dubuque County Recorder's Office, shall be subject to regular and special assessment by the Association only with respect to that portion of the common property and the services and facilities related thereto which are nonsewer-system and nonwater-system related so long as said Lot does not utilize the water or sewer system of the Association. The Board of Directors shall be the final determinant of the appropriate portion of each assessment to be paid by the owner of said Lot.

Section 5. Water and Sewer Connections. No assessment of any kind shall be made against any owner by the Association for connecting into either the Association's sewer system main or its water system main.

Section 6. Maintenance, Repairs and Replacements of Common Property. All maintenance, repairs and replacements in or to the common property shall be performed by the Board of Directors and its designates, and the costs and expenses thereof shall be recovered from regular and special assessments as provided herein, except to the extent that the same are necessitated by the negligence, misuse or neglect of a member, his family, invitee, designate, hiree or contractee in which case such costs and expense shall be assessable to and paid by such member.

Section 7. Default in Payment. In the event any member shall fail to make prompt payment of any assessment hereunder, such member shall be obligated to pay interest at the highest legal rate on such unpaid assessment computed from the due date thereof, together with all expenses, including, without limitation, attorneys' fees paid or incurred by the Board of Directors in any proceeding brought to collect such unpaid assessment arising from default in payment thereof. The Board of Directors shall have the right and obligation to institute all proceedings deemed necessary or desirable by the Board of Directors to recover such unpaid assessment, together with interest thereon computed as aforesaid, and the expenses of any such proceeding. The obligation of the assessments is an absolute obligation and no member may either waive or otherwise escape the same by abandonment of his Lot or nonuse of the common property. Failure of the Association to assert its remedies on any one occasion is not and shall not be construed as a waiver thereof in the event of further or subsequent defaults.

Section 8. Lien and Obligation of Assessments. Upon execution hereof and/or upon acceptance of a deed with respect to the real estate described opposite the Declarants' signature hereto, each member covenants and agrees to pay to the Association:

- a. Regular assessments; and
- b. Special assessments.

Regular assessments and special assessments, together with interest, costs, and reasonable attorneys' fees for collection thereof, shall be a charge upon the land, and be a continuing lien upon the property against which the assessment is made. Such charges shall also be the personal obligation of the owner of said property at the time of the assessment. The lien of such assessment is a perpetual charge on the property, except as otherwise provided herein.

c. Subordination of Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage placed upon any Lot. Sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment which became due prior to said sale or transfer. The sale or transfer subject to such mortgage foreclosure or otherwise shall not extinguish the personal obligation against the owner, his heirs, successors or assigns. No such sale or transfer shall release any Lot from any liability for assessment thereafter becoming due and owing.

ARTICLE VI

Restrictions as to Use and Control with Respect to Structures

Section 1. Each Lot shall be used for single family residential purposes only, except that Developer may use one Lot for sales or promotional purposes.

Section 2. All external wiring of every description shall be properly installed underground. All internal wiring shall comply with minimum Dubuque County and state of Iowa requirements and the National Board of Fire Underwriters requirements.

Section 3. No business of any kind or nature, for pecuniary profit or otherwise, except for Developer, shall be carried on upon the above-described property, nor shall any educational institution, school, or children's nursery be conducted, held or carried on upon the premises, nor shall the premises be used for any purposes either directly or indirectly connected with any charitable institution, nor shall anything be done therein or thereon which may be or become a nuisance to the neighbors or the neighborhood.

Section 4. The grade of any Lot or Lots shall not at any time be changed above the grade established, without prior written approval of the Association's Board of Directors.

Section 5. No structure erected on any Lot shall have less than a minimum ground floor area of 1,300 square feet in the case of a one-story structure and a minimum of 1,000 square feet in the case of a two-story structure. In the case of a split level, the main floor system shall have a minimum area of 1,300 square feet.

Section 6. All front yards shall have a minimum depth of fifty (50) feet back from the front right-of-way or street line to the foundation or front wall of the superstructure of the dwelling which projects out furthest towards the street. No dwelling shall be less than fifteen (15) feet from a side Lot line and all dwellings shall be uniformly spaced on a Lot in any block from one or the other side Lot line and shall be located equally distant from the northerly or southerly or easterly or westerly Lot line to present an appearance of evenness and regularity in each block from the traveled street, unless otherwise approved by the Board of Directors.

Section 7. No detached garage, accessory building or any permanent structure shall be constructed closer than ten (10) feet from any side or rear Lot line.

Section 8. All buildings must present their most attractive fronts to the road.

Section 9. On all homes constructed on Lots, it shall be required that cast iron pipe be used from the main sewer to the basement, including under the basement floor of said homes, and that the water line shall be all copper material and that water meters shall be installed on all new homes.

Section 10. All homes will have at least a one-stall garage.

Section 11. Each Lot owner shall be required to install a street light fixture to be located ten (10) feet from the edge of the driveway. Street light location in relation to the street must be approved by the Board of Directors. The street light shall be operated by an electric eye.

Section 12. There shall be no vehicle parking on the streets of the subdivision with the exception of an occasional social gathering or Association meeting where all vehicles cannot reasonably be parked in the driveway.

Section 13. No trucks, vans or any other vehicle exceeding 3/4 tons rated load capacity or farm, commercial, industrial or construction equipment shall be kept overnight on any Lot except within an enclosed garage to prevent visibility of the vehicle or equipment. An exception is given to construction or related equipment that is temporarily required on an active building project site.

Section 14. No unused automobiles, machinery, material, junk or debris shall be kept upon any Lot.

Section 15. With the exception of Lot 2 of Lot 1 of N.E. $\frac{1}{4}$ of N.E. $\frac{1}{4}$, Sec. 25, T. 88 N., R. 2 E. of 5 P.M. of Hickory Acres in Table Mound and Mosalem Townships, Dubuque County, Iowa, all toilets and waste pipes shall be connected into the Association's sewer system in lieu of any other means of disposal, and all Lots shall use the Association's water system as a source of water.

Section 16. No Lot shall be resubdivided in width to reduce the frontage of the existing Lots along the street or road unless doing so aesthetically improves the subdivision as a whole and is agreed to by the Board of Directors.

Section 17. No trailer, truck body, basement, tent, shack, garage, Quonset hut, barn, or other outbuildings shall be erected or moved on or be kept on the premises at any time and be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted.

Section 18. Exteriors of houses and garages, seeding, sodding and grading shall be completed within one (1) year after excavation begins for said construction. No building shall be occupied for purposes of residential living during construction.

Section 19. Grass and vegetation on the premises shall be kept cut at all times and the Lot maintained in a neat and orderly condition.

Section 20. No roadside signs or stands, temporary or permanent, for sale ^{of} ~~or~~ products or services shall be permitted upon the Lots or common property. Typical "Home for Sale" signs are permitted but are subject to approval by the Board of Directors. Such signs can be removed by the Board of Directors if they are determined to be aesthetically unacceptable.

Section 21. No building shall be moved onto any Lot.

Section 22. No noxious or offensive trade or activity shall be carried on in any house or on any Lot, nor shall anything be done therein or thereon which may become an annoyance or nuisance to the neighbors.

Section 23. Trees shall not be removed from the respective Lots except as it is necessary and incidental to home construction and as may be necessary or may be indicated for good forestry practices.

Section 24. The owner or owners of any Lot or Lots shall not permit any domesticated animals, including cats or dogs, to run at large. No livestock, chickens, or fowl of any kind may be housed, quartered or kept upon any Lot.

Section 25. All boats, snowmobiles, motorcycles, utility trailers, campers, recreational motor homes, and similar type vehicles, are to be stored in a garage or accessory building or in a location determined acceptable by the Board of Directors.

Section 26. Swimming pools shall not be nearer than ten (10) feet of any Lot line. There shall be either a privacy or chain link fence erected around the swimming pool area. Either type of fence shall contain a gate, capable of being latched and locked, and will be subject to approval by the Board of Directors pursuant to Section 32 hereof.

Section 27. Mail boxes shall be erected and located in such manner and at such locations as designated by the Dubuque Post Office Department. The owner shall furnish the mail box and stand.

Section 28. No hunting or shooting of firearms is permitted on any Lot or the common property.

Section 29. For a limited number of Lots, the establishment of standard inflexible building setback lines for location of structures would be incompatible with the objective of preserving the natural setting of the area and preserving and enhancing existing features of natural beauty and visual continuity of the area. Therefore, the location of each structure, including driveways and culverts, on a Lot shall be subject to approval in writing by the Board of Directors giving consideration to setback lines.

Section 30. The property herein above described is further subject to the restrictions and conditions contained in grant of easement made by Paul W. Oberman and Eunice M. Oberman and Francis J. Woller and Linda D. Woller to Northern Natural Gas Company, a Delaware Corporation, for the installation and maintenance of a gas pipeline and said pipeline easement is dated the 12th day of April, 1977, and is recorded in the Office of the Dubuque County Recorder as Instrument No. 3480-77 and to which the owners of Lots and their successors, heirs and assigns are hereto referred to have more detailed information. Said easement was recorded the 14th day of April, 1977.

Section 31. All conveyance of Lots shall be made subject to these restrictions and all deeds shall so specify by incorporating these restrictions by reference.

Section 32. Architectural Control.

a. Purposes and Reasons. The primary purpose of architectural control is to protect the value of the Lots in the development. It is not to be viewed as a means of suppressing expressions of individuality.

Additionally, the purposes are to protect the developer's investment in unsold Lots; to provide the owners essential information regarding the development; to offer advice for the purpose of obtaining the best possible solution of the design problem for the entire area; and to maintain consistency for the purpose of enhancing the value of all properties in the development.

b. Extent of Architectural Control. All buildings, fences, walls, tanks and other structures and erections including any exterior additions, changes or alterations thereof, shall be the subject of control by the Board of Directors of the Association. Until such time as Developer no longer owns or has under land contract any Lot, a representative of Developer shall be considered an ex officio member of the Board for the sole purpose of making the architectural control decisions called for in this Section 32, and for that purpose and that purpose only to have a vote on such architectural control matters thereunder. Prior to commencement of construction of any improvement of the nature above designated, there shall be submitted to the Board, plans and specifications showing the nature, kind, shape, height, elevation, materials, color and location thereafter. The Board shall within thirty (30) days from and after receipt of such plans and specifications, either approve or disapprove the same in writing. In the event of a failure to act, such plans and specifications shall be deemed to have been approved.

c. Violation - Association Right to Injunction. In the event any person shall violate the provisions of this Article, the Association shall be entitled to an injunction to restrain such violation. By executing this Declaration and/or by acceptance of a deed to a Lot, each owner subjects himself to the jurisdiction of a Court of competent jurisdiction for this purpose and waives any right to the posting of a bond by the Association. The election by the Association to seek an injunction does not waive any other remedy which the Association may have either at law or in equity.

ARTICLE VII

General Provisions

Section 1. Enforcement. The restrictions, limitations, conditions, and covenants in this Declaration shall operate as covenants running with the land for the benefit of the Declarants and for all persons who may hereafter own any of the properties, and any subsequent property annexed hereunder, and such persons are specifically given the right to enforce these restrictions through any proceedings, at law or in equity, against any person or persons violating or threatening to violate such covenants, and to recover any damages set by them for any violation thereof.

Section 2. Effect of Partial Invalidity. It is expressly agreed that if any covenant or condition or restriction or limitation herein contained, or any portion thereof, is invalid or void, such invalidity or voidness shall in no way effect any other covenant or restriction or condition or limitation which shall remain in full force and effect.

Section 3. Reservation or Other Remedies. In addition to the remedies set forth herein, the Association reserves the right to enforce any covenants, conditions, limitations or restrictions contained herein by any other appropriate legal action, at its option.

Section 4. Term of Covenants. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under them, for a term of twenty-one (21) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years, unless terminated by a two-thirds (2/3) vote of the then owners.

Section 5. Modification or Amendment. The covenants, agreements, conditions, reservations, restrictions and charges created and established herein may be waived, terminated, or modified as to the whole or any portion thereof, with the written consent of the owners of 100 percent of the Lots. No such waiver, termination or modification shall be effective until the proper instrument in writing shall be executed and recorded in the Office of the Dubuque County Recorder, Dubuque, Iowa.

Section 6. Annexation. Additional residential property and common property may be annexed to the properties by the Association, with the consent of two-thirds (2/3) of the members. Such annexation shall be effective only upon the recording of a verified certificate executed by the President and Secretary of the Association which certifies that the Association with the consent of two-thirds (2/3) of each class members, has actually consented to such annexation.

Section 7. Prior Restrictions. All and any prior restrictions, covenants, conditions, and agreements, specifically including but not limited to a certain Water Service and Sewer Service Agreement, as amended, heretofore executed or otherwise placed on the Properties or any portion thereof prior to the recordation of this Declaration are hereby canceled, rescinded and terminated. It is expressly provided that these restrictions, covenants, conditions, and agreements as they apply to construction and location of structures and only as they apply thereto shall be prospective in application.

IN WITNESS WHEREOF, the undersigned Declarants executed these restrictive and protective covenants consisting of thirteen (13) pages