

D.O.V. # \_\_\_\_\_  
MTG. \_\_\_\_\_  
REF. \_\_\_\_\_

After recording return to:  
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CAROL HOL, RECORDER  
DALLAS COUNTY, IOWA

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**DECLARATION OF  
SUBMISSION OF HORIZONTAL PROPERTY REGIME  
FOR COUNTRY CLUB VILLAS CONDOMINIUMS  
PHASE V**

The City of Clive has received all the condominium instruments and other required documents for filing as of this date. Such receipt does not constitute approval by the City of the content or verification of the facts and statements contained therein.

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**DECLARATION OF SUBMISSION  
OF PROPERTY TO HORIZONTAL PROPERTY REGIME  
FOR  
COUNTRY CLUB VILLAS PHASE V**

This Restated Submission of Property to Horizontal Property Regime for Country Club Villas is made and executed this 4th day of April 2002, by D J DEVELOPMENT INCORPORATED, hereinafter referred to as the "Developer".

WITNESSETH:

WHEREAS, D J Development Incorporated, an Iowa corporation (hereinafter referred to as "DEVELOPER"), hereby executes this Declaration of Submission of Property to Horizontal Property Regime ("Declaration") to be known as COUNTRY CLUB VILLAS CONDOMINIUM PHASE V (hereinafter referred to as the "REGIME"), all pursuant to Chapter 499B, Code of Iowa (2001), entitled "Horizontal Property Act (Condominiums)," the same to take effect when filed for record in the Office of the Dallas County Recorder.

WHEREAS, Developer's purpose in filing this Declaration is to submit and convey the land hereinafter described and all of the improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the condominium form of ownership and use pursuant to the provisions of the aforesaid Horizontal Property Act, and to impose upon said property mutual beneficial restrictions under a general plan of improvement for the benefit of all condominiums and the owners thereof;

NOW, THEREFORE, the Developer does hereby declare that all of the property designated, described and located upon the property described below is to be held and shall be held subject to the following covenants, conditions, restrictions, uses, limitations, and obligations, all of which are declared and agreed to be in the furtherance of a plan for the improvement of said property and the division thereof into condominiums and shall run with the land and shall be a burden and a benefit to Developer, its successor and assigns, and any person owning an interest in the real property described, improvements and appurtenances thereto, his grantee, successors, heirs, executors, administrators, devisees and assigns:

Units 24, 25, 26, 27, 28, 44, 45, 46, 47 and 48, as shown on Exhibit "A" attached hereto and located on a parcel of land within Lot 2 COUNTRY CLUB WEST PLAT 11, an Official Plat, City of Clive, Dallas County, Iowa, that is more particularly described as follows:

Beginning at the southwest corner of said Lot 2, thence N00° 24'19"E, 584.64 feet along the West line of said Lot 2 to a point; thence S89°35'41"E, 304.36 feet to a point; thence S73°00'00"E, 224.55 feet to a point on the east line of said Lot 2; thence S27°00'00"W, 55.00 feet along said east line to a point of curvature;

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thence southerly along a curve to the left having a radius of 730.00 feet, an arc length of 254.82 feet along said east line to a point of tangency; thence S07°00'00"W, 275.38 feet along said easterly line to a point; thence N83°00'00"W, 393.51 feet along the south line of said Lot 2 to the point of beginning and containing 6.046 acres more or less.

1. Association. The term "Association" means the COUNTRY CLUB VILLAS OWNERS ASSOCIATION and its successors or assigns.
2. Building. The term "building" means a structure, occupied by more than one single unit and bounded by the ground beneath such structure, and the outer surfaces of such structure's windows and window frames, doors and door frames, roof, and exterior walls.
3. Condominium. The term "condominium" when used as a noun means a unit and all of the appurtenances thereto.
4. Condominium Documents. The term "condominium documents" means this Declaration, all Exhibits attached hereto, including the Articles and Bylaws of the Association, and supplements and amendments thereto.
5. Developer. The term "Developer" means D J Development Incorporated, and any of its specifically appointed successors, or assigns.
6. General Common Elements. The term "general common elements" means and is hereby described as all of the property not part of a unit, and not hereinafter described as limited common elements, and the term also includes, but is not limited to, the land upon which the buildings are erected, parking spaces, fencing, signs, the foundations, floors, exterior walls of each unit and common load bearing walls in each unit in the buildings, and, in general, all devices or installations existing for common use, compartments or installations of central services for public utilities, water and tanks and pumps, roads, sidewalks, fences, landscaping and plantings, outside lighting facilities and wiring, utility storage unit, and all sewer, water and other utility and service lines and facilities.
7. Incorporation. Exhibits attached hereto and referred to herein are hereby made a part hereof with the same force and effect as other provisions of this document; provided that, wherever specifically provided, modification of certain Exhibits shall not be deemed an amendment to this Declaration.
8. Limited Common Elements. The term "limited common elements" means those facilities, appurtenances, and portions of the property as defined in Article IV as have been designated for the use of those units as hereinafter designated. All of said limited common elements exist for and have been designated as such, for the use of those certain condominium units and to the exclusion of all others.

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9. Owner. The term "owner" means the holder of a real estate interest in a unit, including, but not limited to the Developer, except when otherwise defined in the condominium documents.

10. Ownership Interest. The term "ownership interest" means the ownership units made appurtenant to each unit defined in Article III for purposes including, but not limited to, determining each unit's appurtenant share of the common elements, and determining voting and assessment in accordance with the Bylaws of the Association.

11. Plural and Gender. Whenever the context so permits or requires, the singular shall include the plural and the plural shall include the respective successors, grantees and assigns thereof.

12. Property. The term "property" or the term "condominium property" includes all property, real, personal, or mixed, submitted to the Regime, other than the personal property of any owner which might otherwise be considered submitted to the Regime.

13. Severability. The invalidity of any covenant, restriction, agreement, undertaking or other provision of any condominium document shall not affect the validity of the remaining portions thereof.

14. Successors, Grantees and Assigns. Reference to Developer and Owner, and the Association, or any person or entity, shall include the respective successors, grantees and assigns thereof.

15. Unit. The term "unit" means one or more rooms occupying all or part of a floor or floors in a building of one or more floors, stories, or levels, intended for uses herein restricted and not owned in common with other owners in this Regime. The boundary lines of each unit shall be the decorated or finished interior surfaces of its party, load bearing, and exterior walls; and the decorated or finished interior surfaces of its floors and ceilings, window and window frames; exterior doors and door frames, and exterior window and window frames, and trim, and includes both the portions of the building so described and the air space so encompassed. Each unit contains an unfinished basement. For purposes of this definition and for determining the boundary lines of a unit, a party wall includes all walls common to more than one unit, and all walls common to common elements. Each unit shall be deemed to include all of the walls and partitions which are not load bearing within the boundaries of each unit and the decorated and finished surfaces of all interior walls and floors and ceilings, woodwork, wall covering, floor coverings, doors, glass doors and all appliances, cabinets and built-in fixtures.

## ARTICLE II

### IDENTIFICATION OF LAND, BUILDING, AND UNITS

1. Location of Land. The Property which is hereby submitted to a condominium Regime is located in Clive, Dallas County, Iowa, at 159th Street South of Hickman Road, and is legally described above. Contained in Exhibit "A" attached hereto, is a site plan, drawn to scale.

Such site plan shows the location of the buildings containing the units, the common elements, and land upon which all of the same are situated; which are hereby submitted to a condominium Regime. Exhibit "A" also shows the public streets which provide access to the Property.

2. Description of Building. The buildings have a frame exterior and are set upon concrete foundations which have a colonial style exterior. Submitted hereto are 10 units in two buildings of 5 units each.

3. Description of Residential Condominium Units. The units are two story plans containing 1200 square feet, with the floor plans to be filed upon completion of construction of said units.

4. Access to Common Elements. Each unit has immediate and direct access to the outdoors through a separate entryway.

### ARTICLE III

#### OWNERSHIP OF UNITS AND APPURTENANCES

1. Exclusive Ownership of Unit. Each owner of a unit shall be entitled to exclusive ownership and possession of his or her unit. The owner shall not be deemed to own the undecorated or unfinished interior surfaces of the party, and exterior walls, bottom floor or floors, undecorated or unfinished interior surfaces of load bearing walls and of party and exterior walls, floors and ceilings surrounding each unit or any pipes, wires, conduits, or other utility lines through each unit which are utilized for or serve more than one unit and the windows bounding his unit except an unfinished basement shall be considered a part of each unit. Any owner shall not be deemed to own any elements within the unit which are included in limited or general common elements, notwithstanding the fact that such elements are within the perimeter of such unit. An owner, however, shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the interior surfaces of the walls, floors, ceilings, windows and doors bounding the unit, and also shall have such exclusive right with respect to general or limited common elements which are within the unit, provided, that such refinishing and redecorating shall in no way impair the load bearing capacity of the building or any part thereof or shall impose an unreasonable strain or stress to the building or to any structural element thereof, without the consent of the Association.

2. Passage With Title To Unit. There shall pass with ownership of each unit, as a part thereof, whether or not separately described or specified in any conveyance, all appurtenances to such unit (whether such appurtenance is described in any of the condominium documents), and no part of the appurtenance interest of any unit may be sold, transferred, or otherwise disposed of, except in connection with the sale, transfer, or other disposition of such unit itself, or of all the units in the Regime.

3. Ownership Interest. For purposes of this Declaration, and the Bylaws of the Association, appurtenant to each unit shall be a certain fractional interest. The ownership interest which is appurtenant to each unit is hereby created by this Declaration and shall be counted for all

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purposes stated herein and in all other condominium documents, irrespective of any actual occupancy or use of the unit to which appurtenant.

4. Percentage Ownership Interest in General Common Elements. An undivided ownership interest in the land and other common elements of the Regime, regardless of whether such elements are general or limited common elements, shall be appurtenant to each unit. The listing of the undivided ownership interest in the general common elements as a fractional expression, is contained in Exhibit "C" attached hereto. Also contained in that Exhibit and as the same fractional expression is the interest which each condominium unit bears to the entire Horizontal Property Regime.

5. Use of Limited Common Elements. The exclusive use of the limited common elements shall be deemed an appurtenance to the unit or units for which said elements are reserved, provided such use and enjoyment shall be limited to the uses permitted by this Declaration and other condominium documents. The listing of the ownership interest in the limited common elements is contained in Exhibit "B."

6. Common Elements. Appurtenant to each unit shall be a right to enjoy and use the common elements, and said use and enjoyment shall be deemed as an appurtenance.

7. Membership and Voting Rights. Appurtenant to each unit shall be a membership in the COUNTRY CLUB VILLAS OWNERS ASSOCIATION, and as many votes in the affairs of the Association, as specified herein, provided, the exercise of such voting and membership rights shall be subject to the applicable provisions of the Articles and Bylaws of the Association and other condominium documents related thereto which grant voting rights to individuals owning units in other regimes within Country Club Villas Condominiums. The action of such Association shall be deemed the action of the owners of, or of the counsel of co-owners, whenever such action is permitted or required by Section 499B, Code of Iowa (2001); and such action, when taken in accordance with the Bylaws and Articles of Incorporation of the Association and in accordance with this Declaration, shall be final and conclusive upon all unit owners. Appurtenant to each condominium unit shall be certain voting units described on Exhibit "C," which voting units may be cast by the owner or owners of each condominium unit. If more than one person holds an interest in any one condominium unit, all such persons shall be members of the Association. The vote for each condominium unit shall be exercised as all of the owners thereof may determine, but in no event shall more than one vote be cast with respect to any one condominium unit.

8. Cross-Easements. Appurtenant to each unit shall be cross easements from each unit owner to each other unit owner and to the Association and from the Association to the respective unit owners, as follows:

- A. Through the units and common elements for maintenance, repair and replacement or reconstruction of common elements including but not limited to sanitary sewer service lines, water service lines and storm sewer collection systems, but access to units shall be only during reasonable hours except in cases of emergency;

- B. For egress and ingress through the common elements and for access, maintenance, repair and replacement as authorized;
- C. Through the units and common elements for conduits, ducts wiring, plumbing and other facilities for the furnishing of utility or other services to the other units and to the common elements; provided, however, that such easement through a unit shall be only according to the plans and specifications for the unit and the building unless approved by the unit owner.

9. Easement for Encroachments and Maintenance. If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and Units are shown by the site plan, there shall be deemed to be mutual easements in favor of the owners of the Common Elements and the respective Unit Owners involved, to the extent of such encroachments, so long as the same shall exist.

10. Prior Easements. Any and all easements created prior to the recordation of this instrument are incorporated herein by this reference.

#### ARTICLE IV

#### LIMITED COMMON ELEMENTS

Description. The attached garages for each unit and patios for units located at either end of a Building are hereby reserved as limited common elements for the benefit of the units to which the garages are assigned, to the exclusion of the other units. A showing of said limited common elements in relation to each other, and in relation to the other common elements, appear in Exhibit "A." This listing of the ownership interests in the limited common elements is contained in Exhibit "B."

#### ARTICLE V

#### DEVELOPER'S RESERVE RIGHTS AND POWERS

The Developer reserves the following rights and powers with respect to the units.

1. Developer's Activities and Unit Ownership. The Developer is irrevocably and perpetually empowered, notwithstanding any use restrictions or provisions to the contrary, to sell, lease, and enter upon the Property to transact upon the condominium Property, any business relating to the construction, sale, lease, or rental of condominium units herein and any recreational facilities including, but not limited to, the right to maintain models, offices, signs, employees and equipment and materials on the premises, and use common elements to show units. Any sale or rental office, signs, or other items or equipment pertaining to the sale or rental of any facilities furnished by the Developer shall not be considered as common elements and shall remain separate Property of the Developer. The Developer retains the power to be and remain the owner of unsold units under the

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same terms and conditions as other owners, including membership in the Association, save for its right to sell, rent or lease.

2. Designation of Association Directors - Voting Rights. The Developer shall have the right to name all members of the Board of Directors of COUNTRY CLUB VILLAS OWNERS ASSOCIATION until the sale and transfer of all units in the Regime, or to be added by the Developer to the Regime, to third parties. Thereafter, the directors shall be elected in the manner specified in the Bylaws of the Association. Notwithstanding any other provisions in the condominium documents to the contrary, the Developer shall be the sole voting member of the Association until the Developer no longer owns any portion of the Property or until the Developer waives, in writing, its rights hereunder.

3. Developer's Option to Add to Horizontal Property Regime. The Developer shall have the exclusive option and right at any time, without the consent of the Association or any other third party, to add or delete units to or from Country Club Villa Condominiums Phase IV additional units subject to the following terms and conditions:

- A. Only the Developer and the Developer's assignee or successor in interest may terminate this option.
- B. The Developer shall exercise its option by executing a Supplemental Declaration describing the units and other amenities to be added to this condominium regime and by recording the same with the Dallas County Recorder.
- C. The terms and conditions of this Declaration shall apply to said property added to this Horizontal Property Regime as though originally a part hereof, except as modified by the Developer.
- D. The general and limited common elements, ownership interests and voting rights appurtenant to each unit as a result of adding said additional units to this horizontal property regime shall be specified on an exhibit to the Supplemental Declaration.
- E. Any and all buildings and units added to this horizontal property regime shall be compatible with the buildings and units described herein, as though originally constituting a part of Country Club Villas.
- F. Developer's rights hereunder to expand the Regime shall expire seven years from the date of recording this instrument.

4. Passage of Control. Except as provided in Article V Section 3(F) above, the Developer's rights hereunder to control the Association and the Regime shall expire upon the earlier of (a) 120 days after the recordation of the deed evidencing the sale of 75% of the units hereunder, or (b) five years after the recordation of the deed evidencing the first sale of the units hereunder.

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ARTICLE VI

MANAGEMENT OF THE REGIME

1. Council of Co-Owners; Membership Vote or Other Action of Owners. The business and affairs of the Regime shall be managed and governed by COUNTRY CLUB VILLAS OWNERS ASSOCIATION, a nonprofit membership corporation, organized and existing under Chapter 504A, Code of Iowa (2001). Copies of the Articles of Incorporation of that Association and its Bylaws have been recorded with the original Declaration. Voting and other action on the part of unit owners as a group shall be conducted according to the provisions and under the control and supervision of the Association. The action of the Association shall constitute the action of the owners or of the council of co-owners whenever such action is permitted or required herein, or by Chapter 499B, Code of Iowa (2001).

2. Agreement and Compliance. All owners, occupants, or other persons using or occupying the Regime shall be bound by and strictly comply with the provisions of the Bylaws of the Association and all applicable provisions of other condominium documents, and all rules, regulations, and determinations lawfully made by the Association and its Directors, officers, or agents, shall be binding upon such owners and other persons. Failure to comply with the Bylaws or other provisions of other condominium documents, or any agreement or determination thus lawfully made, shall be grounds for an action to recover sums due for damages on the part of the Association or any owner as applicable and for mandatory and other injunctive relief without waiving any other remedy.

3. Assessments. Each owner hereby agrees that the Association has and shall exercise all powers, rights and authority granted unto it, the council of co-owners and the owners as a group by Chapter 504A, and 499B, Code of Iowa (2001), and such as are more particularly set forth in the condominium documents, including, but not limited to, the making of assessments for common expenses chargeable to owners of condominium units in the creation of a lien against said condominium units. The first monthly assessment shall be due on the first day of the month following the recordation of this instrument. All sums assessed by the Association, but unpaid for the share of common expenses chargeable to any condominium unit, shall constitute a lien against said unit prior to all other liens except for: (1) tax liens against the unit in favor of any assessing unit and special district, and (2) all sums unpaid on a first mortgage of record. In the event of a mortgage foreclosure or a deed executed in lieu of foreclosure, as to any of the condominium Property, the assessment lien shall cease to be a lien against the Property, but the Association shall have the right to seek a money judgment against the Owner or Owners assessed. Such lien may be foreclosed by the Association in like manner as a mortgage of real property is foreclosed. In the event of any such foreclosure, the condominium unit owner shall be required to pay reasonable rental for occupation of said unit, and the Association shall be entitled to the appointment of a receiver to collect the same. The Association shall have the power to bid in the condominium unit at a foreclosure sale, and to acquire and hold, lease mortgage or convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The Association may recover reasonable attorneys fees and any and all costs and expenses in the case of any proceedings. All condominium unit owners hereby waive all right of partition, if any,

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in connection with such acquisition of a condominium unit at foreclosure sale. Every owner hereby waives any right to delay or prevent such foreclosure by the Association which he may have by reason of a homestead exemption.

4. Payment of Utilities. Each owner of a condominium unit shall be liable for all assessments made by the Association for common expenses and liabilities of the Association in and upon the condominium Property. The Association shall pay unto the appropriate utility companies, the expenses and costs incurred for providing gas, electricity, water and other facilities to the common elements and said costs shall be treated as a common expense and assessed against the units and the owners of said units according to said units' appurtenant percentage ownership interest in the common elements. The liability of each unit owner for such assessments provided herein may not be avoided by waiver of the use for enjoyment of any common element or by abandonment of the unit for which an assessment is made. All costs incurred for providing electricity, water, gas and other facilities directly to each unit shall be billed directly to each unit owner and paid by said unit owner.

5. The Right of Entry. The Association shall have the right, which right shall be exercised at reasonable times and under reasonable circumstances, to enter a unit as may be necessary or advisable to carry out its granted responsibilities as set forth hereunder.

6. Discharge Lien. The owner of any unit shall not suffer nor permit any lien to be filed against his or her condominium, with the exception of a mortgage duly executed and delivered by the owner of a condominium unit. In the case of such a filing of a lien against the condominium unit, the owner shall promptly discharge said lien.

7. Limitation of Association's Liability. No liability shall attach to the Association or Developer, for the failure of any water supply or other service to be obtained and paid for by the Association hereunder, or for any damage or injury to property caused by or from rain, air, water, electricity, dust, dirt, or sand which may leak or flow from outside or from any parts of the buildings, or from any of the pipes, drains, conduits, equipment, or appliances, or from any other place unless caused by the Association's own negligence. No abatement of assessments or adjustments thereof shall be allowed for inconveniences or discomfort arising from the making of any repairs or improvements to the common areas or from any action taken to comply with any law, ordinance or order of any governmental authority

8. Officer's and Director's Indemnification. Each and every member of the Association shall be indemnified by the Association and other owners for all expenses and liabilities or any settlement thereof, including attorney's fees, reasonably incurred by or imposed upon him in connection with his being, or having been, an officer or Director of the Association, whether or not he is an officer or Director at such time the expenses were incurred, except in such cases wherein such person is adjudged guilty of, or liable for willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being in the best interests of the Association.

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9. Developer's Liability. The Developer shall not be liable for the assessments made by the Association unless it retains title to any unit for the purpose of renting or leasing said unit. By the acceptance of a deed to a unit, each owner releases the Developer from any and all liability associated with or arising out of the establishment of this condominium Regime and the construction of these units, and actions taken or not taken while the Developer controls the Association.

10. Notice to Mortgagee. Upon written request of any holder of first mortgage upon any unit, the Association shall supply information relative to the following matters:

- (a) proposed amendment to condominium documents;
- (b) proposed termination of condominium Regime;
- (c) condemnation or casualty loss to Property;
- (d) delinquency in the payment of assessments;
- (e) insurance on the Property.

11. Garbage Removal. The Association shall make all necessary arrangements and agreements for the removal of all garbage and refuse from the Property for the benefit of the Owners. All Owners shall abide by all rules and regulations promulgated by the Association for the removal of refuse and the placement of receptacles. All such rules shall comply with ordinances of the City of Clive.

## ARTICLE VII

### MAINTENANCE, ALTERATION AND IMPROVEMENT

1. Maintenance, Repair, Improvement. For the purposes of this Article and for any other reference in relation thereto, the terms "maintenance" or "repair" shall constitute an act of preserving, restoring, renovating, reconstructing, replacing, rebuilding, and any other similar work necessary to maintain or return a unit or the Property to its original condition as existed upon the date that this Declaration is recorded or upon the date of completion of construction of the units. For purposes of this Article and all other references hereto, the term "improvement" shall constitute the addition of any new structure, element or facility, other than the structure, element or facility otherwise provided for by this Declaration.

2. Association's Maintenance. The Association shall maintain all common elements (including but not limited to sanitary sewer service lines to the units, water service lines to the units, the storm sewer collection system including structures, sump service lines to the units, fences, monument signs, private street, private drives, street lights and snow removal), whether limited or general, and make assessments therefor as a common expense, except for maintenance as has been specifically made the responsibility of the unit owner. The Association shall repair incidental damages caused to a unit by the acts of the Association through its maintenance and shall assess the cost as a common expense. If a unit owner defaults or neglects to perform his responsibilities of maintenance, then the Association shall assume those responsibilities and shall assess the cost thereof against the owner of such unit and such assessment shall be collectible as if it were an assessment for common expenses. The Association may, in its discretion, assume any other

responsibility for maintenance to, or affecting, more than one unit and the cost thereof may, at the discretion of the Association, either be assessed against each unit in or for which such costs were incurred or assessed against all units as a common expense. Where reasonably necessary for carrying out its responsibilities hereunder the Association shall have the right to grant utility and other easements over, across and through the common elements for the maintenance, repair and operation of the Property.

3. Owner's Maintenance. At his own expense, each unit owner shall maintain the interior, including the boundary surfaces of his own unit and equipment, and shall keep such interior in a clean and sanitary condition, and shall do all redecorating, painting or other finishing which may at any time be necessary to maintain the unit, and shall be responsible for the maintenance of all personalty, including carpets, furnishings, and appliances within such unit. The Owner of a unit which includes a patio shall be responsible for the repair and maintenance thereof.

The maintenance of any plumbing fixture, water heater, fireplaces, furnaces and other heating equipment, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, washers, dryers, disposals or ranges in any or connected with such unit and for its exclusive use, shall be the responsibility of each unit owner. Each unit owner shall maintain, at his or her own expense, any improvements or alterations made by him, pursuant to this Article.

The owner of each unit has the responsibility to promptly report to the Association any defects or maintenance needs which are the Association's responsibility.

No unit owner shall make, or permit to be made, any structural alteration to any unit or to the building or to permit or suffer to be brought upon the premises, or within the unit, anything which would jeopardize the structural soundness of the unit, or the building containing the same, without first obtaining written consent of the Board of Directors of the Association. Such owner shall do no act or work which will impair the structural soundness or integrity of the building or safety of the Property, or impair any easement.

## ARTICLE VIII

### CONDITIONS OF USE AND RESTRICTIONS ON OWNERSHIP USE AND ENJOYMENT

1. Subjection of the Property to Certain Provisions. The ownership, use, occupation, and enjoyment of such unit and of the common elements of the Regime, shall be subject to the provisions of the Bylaws and Articles of Incorporation of the Association, and this Declaration, all of which provisions are irrespective of whether set forth or classified, shall have equal status and shall be enforceable and binding as a covenant, condition, restrictions, or requirement running with the land and shall be binding on and enforceable against, each and all units and the owners thereof and their respective assigns, lessees, tenants, occupants, and successors in interest.

The use and ownership of the Property are subject to all easements and restrictions now of record which, by this reference, are incorporated herein. Water and sewer facilities and easements

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therefor exist over, across and through the common elements and separate utility lines run to each unit.

2. Usage of the Property. The use of the condominium Property shall be in accordance with and subject to the following terms and provisions:

- A. Each unit shall be used for such purposes as are authorized under the applicable zoning ordinances and by the rules and regulations of the Association and each owner shall observe, comply with, and perform all rules, regulations, ordinances, laws and final development and site plans approved and made by any governmental authority of the municipal, state and federal government applicable to the condominium Property.
- B. No activity shall be allowed which unduly interferes with the peaceful possession and use of the Property by the unit owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- C. Nothing contained shall be done or kept in any unit or in the common elements which shall increase the risk of insurance on the common elements without the prior written consent of the Association. No owner shall permit anything to be done or kept in his unit or in the common elements which will result in the cancellation of insurance on any unit or on any part of the common area, or which would be in violation of any law.
- D. No noxious or offensive activities shall be conducted upon the condominium Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to owners or to the Association.
- E. A unit owner shall be liable to the Association for the expense of any maintenance, repair, or replacement rendered necessary by his neglect or by that of his family, guests, employees, agents, or lessees, which liability shall include any increase in insurance rates resulting therefrom.
- F. No livestock, horse or member of the equine family, poultry, or other animal of any kind shall be raised, bred, or kept on the Property, except an owner shall be permitted to keep domesticated dogs, cats or other household pets in a unit weighing 25 pounds or less, subject to the rules and regulations adopted by the Association including the requirement that all pet owners remove all animal waste from the Property.
- G. Nothing shall be altered in, constructed in, or removed from the common elements, limited or general, except upon written consent of the Board of Directors of the Association which may be given through rules and regulations of the Association.
- H. Any holder of a first mortgage which acquires possession of a unit by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or rental

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of such unit until such unit is sold or rental agreement is executed and without the approval of the Board of Directors of the Association.

- I. There shall be no obstruction of the general common elements, nor shall anything be stored in the general common elements without prior consent of the Board of Directors. No owner shall use the common elements in such a manner so as to obstruct the use thereto by other owners having the right to use the same.
- J. No recreational vehicles, including but not limited to, campers, trailers, motor homes, motor bikes, motorcycles, boats and heavy equipment, shall be permitted on the Property unless confined in a garage.
- K. Nothing shall be hung or displayed on or from the exterior of any unit, building, or common elements without the prior written approval of the Board of Directors of the Association.
- L. The Property shall not be partitioned or subdivided unless agreed to in writing by all owners and mortgagees of all units.
- M. The use, repair and maintenance of limited common elements shall be subject to rules and regulations promulgated by the Association.
- N. All repairs and replacements of exterior portions of the units by Owners shall be accomplished with materials of the same quality, design and appearance of the original materials and according to rules and regulations promulgated by the Association.
- O. All leases of Units shall be in writing with a term of not less than six (6) months.

#### ARTICLE IX

##### DESTRUCTION, CASUALTY AND PARTIAL CONDEMNATION

1. Determination in Event of Destruction or Casualty. In the event of fire, casualty, any other damage, destruction, or partial condemnation of or to all or part of the Property, unless within thirty (30) days of the date of such fire, casualty or other damage, destruction, or condemnation to all or part of the Property, contrary action is taken by majority vote of the owners of the meeting called for that purpose; failure to take such contrary action during said thirty (30) day period shall constitute a determination by the Association to do the following:

- A. If insurance or condemnation proceeds are sufficient to pay at least eighty percent (80%) of the cost of reconstruction of the damaged or destroyed property, and less than one-third (1/3) of the units and their buildings is taken or destroyed, such Property shall be reconstructed by the Association in conformity to the original

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construction and the proceeds therefor shall be applied thereto. The costs, if any, of reconstruction which exceeds the amount of such proceeds, shall be assessed against all unit owners as a common expense.

- B. If the insurance or condemnation proceeds are inadequate to cover at least eighty percent (80%) of the cost of reconstruction of the damaged or destroyed property, and if one-third (1/3) or more of the units are destroyed, then upon the 31st day following the date of such damage or destruction, the entire Property shall be deemed to be owned in common by the unit owners in accordance with the provisions of Section 499B.16, Code of Iowa (2001), and the procedures contained therein shall be followed.

2. Reconstruction. The term "reconstruction" as used in this Article, means restoring the Property to substantially the same condition in which it existed prior to the fire, casualty or other destruction, taking or disaster, with each unit and the common element having substantially the same vertical and horizontal boundaries as before. Nothing contained in this Article shall prevent the Association from beginning to reconstruct, such reconstruction shall begin and be completed within reasonable time as determined by the facts and circumstances.

3. Vote of Owners. In any case of damage, destruction, or partial condemnation, the Board of Directors of the Association shall call a meeting of the members of the Association to be held within thirty (30) days of the occurrence of said damage, destruction or taking. The express purpose of said special meeting shall be to determine, by a majority vote of the members, whether the damaged, destroyed or remaining condominium Property will be repaired.

4. Specifications Upon reconstruction, all repair, rebuilding, restoring, and reconstructing of the Property shall be substantially in accordance with the plans and specifications of the original construction, and the percentage of ownership interest and such other appurtenances to each unit after such repair, rebuilding, restoring or reconstructing, shall be the same as before.

5. Exclusion. The provisions of this Article are intended to provide for damage or destruction resulting from an occurrence or casualty which shall exclude maintenance and the remedying of ordinary wear and tear.

## ARTICLE X

### INSURANCE PROVISIONS

Authority to Procure. The Association shall procure insurance coverage on and equal to the full replacement value, to be determined periodically by the Association, of all Property for the benefit of the Association, unit owners, and respective mortgagees. Such coverage shall afford protection against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage, and shall include general public liability coverage of at least One Million Dollars (\$1,000,000) for bodily injury, including death, fidelity bonds, and workmen compensation where required and other risks prescribed by the Board of Directors.

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Provisions shall be made for the issuance of certificates of insurance with endorsement to the mortgagee of each unit owner. The cost of such insurance procured by the Association shall be assessed by the Association and treated as a common expense. The premiums upon said insurance policies purchased by the Association shall be paid by the Association. Such policies may not be cancelable by any party without at least twenty (20) days' prior written notice to the Association and to all holders of mortgages of record. Each unit owner may obtain insurance coverage, at his own expense, upon his own unit and appurtenances thereto, household and personal property, fixtures, alterations, installations or additions comprising a part of his unit, when situated within his unit, or upon limited common elements reserved for his unit, and for his personal liability and living expense.

The Association shall have full and complete authority to procure all insurance policies required hereby, to file claims, to receive proceeds and to make application of said proceeds as provided herein. Insurance coverage shall be analyzed by the Association, through its Board of Directors, annually to determine the adequacy of coverage and the terms and conditions of any and all insurance contracts, and said insurance policies shall be revised accordingly.

## ARTICLE XI

### MISCELLANEOUS

1. Amendment Procedure. This Declaration may be amended by the Developer prior to Developer's passage of control described above. Thereafter, amendments should be made upon the affirmative of sixty-seven percent (67%) of the unit owners. No amendment hereunder shall alter the rights of the Developer or impose any additional obligations upon the Developer without its express written consent.

2. Limitations. No such amendment shall change the ownership interest appurtenant to a unit, nor the share of the common elements appurtenant to it, nor the membership or voting rights appurtenant to each unit, nor increase the owners' share of the common expenses; unless all of the record owners of and mortgagees of all mortgages of the condominium Property unanimously join in said amendment by duly recorded instruments except for such changes necessitated by the Developer's exercising its rights pursuant to Article V, Section 3 above.

3. Priorities. This Declaration will supersede and take precedence over any provision in the Articles or Bylaws of the Association now or hereafter appearing. In the event of any conflict or apparent conflict with this Declaration and any Article or Bylaw provision, the conflicting provision in the Articles or Bylaws shall be disregarded.

4. Notification of Defaults. Upon written request, the Association shall give any mortgage holder notification of its mortgagor's default hereunder where said default remains uncured for sixty (60) days.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 4th day of April 2002.

D J DEVELOPMENT INCORPORATED

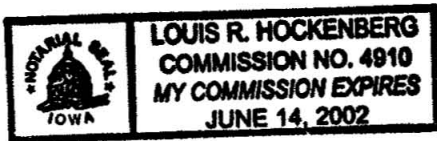
By *John T. McCartan*  
John T. McCartan,  
Vice President

DEVELOPER

STATE OF IOWA                    )  
  )SS:  
COUNTY OF POLK                )

On this 4th day of April 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared JOHN T. McCARTAN to me personally known, who being by me duly sworn, did say that he is the Vice President of the corporation executing the within and forgoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that JOHN T. McCARTAN as an officer acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him voluntarily executed.

*Louis R. Hockenber*  
NOTARY PUBLIC IN AND FOR THE  
STATE OF IOWA



**EXHIBIT "A"**

**SITE PLAN**

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**EXHIBIT "B"**

**OWNERSHIP INTEREST IN COMMON ELEMENTS**

**APPURTENANT TO EACH UNIT**

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EXHIBIT "B"

Designation of General Common Elements  
Limited Common Elements, Interest in  
Regime Appurtenant to Each Unit  
and Voting Rights

A. General Common Elements

Appurtenant to each unit is a 1/10th interest in the general common elements.

B. Undivided Ownership Interest in Regime                      Fractional Interest in Regime

Appurtenant to each unit is a 1/10th interest in the condominium regime.

C. Limited Common Elements                      Fractional Interest In Limited Common Elements

Appurtenant to each condominium unit is a certain attached garage and the patio adjacent to each end condominium unit.

D. Voting Rights

Appurtenant to each condominium unit is one vote.

Note: Upon the Developer's submitting additional condominium units to Country Club Villas Condominiums, the interest in the general common elements and in the Regime shall be adjusted accordingly with each unit having an equal interest in the general common elements and in the Regime.