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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS TO RUN WITH THE LAND

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS MADE THIS 20TH DAY OF JUNE, 1989, BY GERALD A. HARR AND JOHN H. HARR, HEREINAFTER CALLED THE "OWNER-DEVELOPER", THE OWNER OF ALL OF SPLIT ROCK THIRD ADDITION.

WHEREAS, THE OWNER-DEVELOPER INTENDS TO CREATE A RESIDENTIAL COMMUNITY FOR THE BENEFIT OF THE OWNERS OF LOTS IN SPLIT ROCK THIRD ADDITION WHICH ARE SUBJECT TO THE FOLLOWING RESTRICTIONS; AND WHEREAS, THE OWNER-DEVELOPER INTENDS TO DEVELOP AND IMPROVE SAID ADDITION AND OFFER FOR SALE THE LOTS AS SHOWN IN SAID PLAT AND IS DESIROUS OF SUBJECTION OF ALL OF SAID ADDITION TO CERTAIN COVENANTS, AGREEMENTS, EASEMENTS, RESTRICTIONS, CONDITIONS AND CHARGES, AS HEREINAFTER SET OUT; AND

WHEREAS, THE OWNER-DEVELOPER WILL ORGANIZE AN UNINCORPORATED ASSOCIATION OF HOME OWNERS KNOWN AS THE SPLIT ROCK THIRD ADDITION HOME OWNER ASSOCIATION, TO WHICH WILL BE DELEGATED AND ASSIGNED THE POWERS OF ADMINISTERING AND ENFORCING THE COVENANTS, CONDITIONS AND RESTRICTIONS HEREINAFTER CREATED;

NOW, THEREFORE, THE OWNER-DEVELOPER DOES HEREBY DECLARE THAT THE REAL PROPERTY IN SPLIT ROCK HEIGHTS THIRD ADDITION IN MINNEHAHA COUNTY, SOUTH DAKOTA, AS DESCRIBED IN ARTICLE II SHALL BE HELD, TRANSFERRED, SOLD, CONVEYED AND OCCUPIED SUBJECT TO THE COVENANTS, CONDITIONS, RESTRICTIONS, ASSESSMENTS, CHARGES, EASEMENTS, AND LIENS HEREINAFTER SET FORTH; FURTHER SPECIFYING THAT SAID DECLARATION SHALL CONSTITUTE COVENANTS TO RUN WITH THE LAND, AND SHALL BE BINDING ON ALL PARTIES AND ALL PERSONS CLAIMING UNDER THEM, AND FOR THE BENEFIT OF AND LIMITATIONS UPON ALL FUTURE OWNERS IN SAID ADDITION, SAID COVENANTS, CONDITIONS AND RESTRICTIONS BEING DESIGNED TO KEEP SAID ADDITION UNIFORM AND TO INSURE THE HIGHEST AND BEST RESIDENTIAL DEVELOPMENT OF SAID PROPERTY.

ARTICLE I
DEFINITIONS

THE FOLLOWING WORDS WHEN USED IN THIS DECLARATION SHALL HAVE THE FOLLOWING MEANINGS;

- (A) "ASSOCIATION" SHALL MEAN AND REFER TO THE SPLIT ROCK HEIGHTS SECOND ADDITION HOME OWNERS ASSOCIATION.
- (B) "OWNER" SHALL MEAN AND REFER TO THE RECORD OWNER, WHETHER ONE OR MORE PERSONS OR ENTITIES, OF THE FEE SIMPLE TITLE TO ANY LOT.
- (C) "MEMBER" SHALL MEAN AND REFER TO ALL THOSE OWNERS WHO ARE MEMBER OF THE ASSOCIATION AS PROVIDED HEREIN.
- (D) "DEVELOPER" SHALL MEAN AND REFER TO JOHN H. HARR, AND GERALD A. HARR, DBA HARR DEVELOPMENT COMPANY.

ARTICLE II
PROPERTY SUBJECT TO RESTRICTION

THAT PORTION OF THE SW1/4 OF THE SE1/4 OF SECTION 19, TOWNSHIP 101 NORTH, RANGE 48 WEST OF THE 5TH PRINCIPAL MERIDIAN, EXCEPT THE EASTERLY 240 FEET

THEREOF AND EXCEPT LOTS 21 AND 22A IN BLOCK 2 OF SPLIT ROCK HEIGHTS THIRD ADDITION ACCORDING TO THE RECORDED PLAT THEREOF, ALL IN THE COUNTY OF MINNEHAHA IN THE STATE OF SOUTH DAKOTA.

ARTICLE III MEMBERSHIP IN THE ASSOCIATION

EVERY PERSON OR ENTITY WHO IS THE OWNER OF A FEE OR UNDIVIDED INTEREST IN A FEE OR HAS ANY INTEREST IN ANY LOT WHICH IS SUBJECT BY COVENANTS OR RECORD TO ASSESSMENT BY THE ASSOCIATION SHALL BE A MEMBER OF THE ASSOCIATION. HOWEVER ANY PERSON OR ENTITY THAT HOLDS SUCH INTEREST MERELY AS SECURITY FOR THE PERFORMANCE OF AN OBLIGATION, SUCH AS A MORTGAGEE, SHALL NOT BE A MEMBER UNLESS AND UNTIL THROUGH FORECLOSURE OR OTHERWISE THE SECURITY INTEREST AND TITLE SHALL MERGE IN THE OWNER OF THE SECURITY. MEMBERSHIP SHALL BE APPURTENANT TO AND MAY NOT BE SEPARATED FROM OWNERSHIP OF ANY LOT WHICH IS SUBJECT TO ASSESSMENT BY THE ASSOCIATION.

ARTICLE IV VOTING CLASSES OF MEMBERSHIP IN THE ASSOCIATION

1. THE ASSOCIATION SHALL HAVE TWO CLASSES OF VOTING MEMBERSHIP:

(A) CLASS A MEMBERS SHALL BE ALL THOSE OWNERS AS DEFINED IN ARTICLE III WITH THE EXCEPTION OF THE OWNER-DEVELOPER OF SPLIT ROCK THIRD ADDITION. CLASS A MEMBER SHALL BE ENTITLED TO ONE VOTE FOR EACH LOT IN WHICH THEY HOLD THE INTEREST REQUIRED FOR MEMBERSHIP. NOTWITHSTANDING THE FACT THAT THE LOTS MAY BE OWNED IN UNDIVIDED INTERESTS OR PURCHASED BY CONTRACT FOR DEED, NO MORE THAN ONE VOTE MAY BE CAST WITH RESPECT TO ANY ONE LOT. THE VOTE FOR SUCH LOT SHALL BE EXERCISED AS THE OWNERS AMONG THEMSELVES DETERMINE, BUT IN NO EVENT SHALL MORE THAN ONE VOTE BE CAST WITH RESPECT TO ANY LOT.

(B) THE OWNER-DEVELOPER SHALL BE THE SOLE CLASS B MEMBER. THE CLASS B MEMBER SHALL BE ENTITLED TO THREE VOTS FOR EACH LOT, AS SHOWN ON THE MASTER PLAN WHICH WAS APPROVED BY MINNEHAHA COUNTY ON 3/15/77, IN WHICH IT HOLDS THE INTEREST REQUIRED FOR MEMBERSHIP IN ARTICLE III. CLASS B MEMBERSHIP SHALL CEASE AND TERMINATE UPON THE HAPPENING OF EITHER OF THE FOLLOWING EVENTS, WHICHEVER FIRST OCCURS:

(1) WHEN THE TOTAL VOTES OUTSTANDING IN THE CLASS A MEMBERSHIP EQUALS OR EXCEEDS THE TOTAL VOTES OUTSTANDING IN CLASS B MEMBERSHIP; OR

(2) ON DECEMBER 31, 1998.

UPON THE HAPPENING OF EITHER OF THE TWO FOREGOING EVENTS, THE CLASS B MEMBER SHALL BE DEEMED TO BE A CLASS A MEMBER WITH ON VOTE FOR EACH LOT OWNED BY THE OWNER-DEVELOPER.

2. THE ASSOCIATION SHALL MEET AT LEAST ANNUALLY TO ELECT OFFICERS AND A BOARD OF DIRECTORS AND SUCH OTHER COMMITTEES REQUIRED BY THESE COVENANTS OR NECESSARY TO THE OPERATION OF THE ASSOCIATION. ONE OF THE OFFICERS SHALL BE DESIGNATED AS THE GOVERNMENTAL REPRESENTATIVE TO ATTEND TOWNSHIP, COUNTY, CITY AND OTHER GOVERNMENTAL MEETINGS TO REPRESENT THE INTERESTS OF THE ASSOCIATION. THE ASSOCIATION SHALL ADOPT RULES FOR THE CONDUCT OF IT BUSINESS, INCLUDING THE ELECTION OF OFFICERS, THE SPENDING OF FUNDS FOR PURPOSES OF ASSESSMENTS, AND THE ADMINISTRATION OF THE ASSESSMENT PROCEDURE PROVIDED HEREIN.

ARTICLE V PROPERTY RIGHTS AND EASEMENT AREAS

SECTION 1. MEMBERS EASEMENT OF ENJOYMENT. EVERY MEMBER SHALL HAVE A RIGHT AND EASEMENT OF ENJOYMENT IN AND TO THE EASEMENT AREAS AND SUCH EASEMENT SHALL BE APPURTENANT TO AND SHALL PASS WITH THE TITLE TO EVERY LOT, SUBJECT TO THE EXCEPTIONS AS STATED HEREINBELOW.

SECTION 2. EXTENT OF MEMBERS' RIGHTS. THE RIGHTS AND EASEMENTS OF ENJOYMENT CREATED HEREIN SHALL BE SUBJECT TO THE FOLLOWING:

(A) THE RIGHT OF THE OWNER-DEVELOPER AND OF THE ASSOCIATION IN ACCORDANCE WITH THE ARTICLES AND BY-LAWS OF THE ASSOCIATION, TO BORROW MONEY FOR THE PURPOSE OF IMPROVING OR MAINTAINING THE EASEMENT AREAS AND UTILITIES.

SECTION 3. LAKE USE RESTRICTIONS. THE ASSOCIATION MAY RESTRICT THE PUMPING OF WATER FROM THE LAKE IF IT FEELS THAT SUCH PUMPING MIGHT AFFECT THE LEVEL OF THE LAKE. NO MECHANICALLY POWERED BOATS OF ANY KIND MAY BE USED ON THE LAKE. LAKE USE IS RESTRICTED TO LOT OWNERS AND THEIR GUESTS. NO PERSONAL EQUIPMENT OR BOATS MAY BE LEFT IN THE EASEMENT AREAS. USERS OF THE EASEMENT MUST NOT LEAVE THEIR REFUSE AND MUST ATTEMPT TO KEEP THE AREA CLEAN AT ALL TIMES.

ARTICLE VI ASSESSMENTS

SECTION 1. PAYMENT OF ASSESSMENTS AND CHARGES. THE OWNER-DEVELOPER HEREBY COVENANTS THAT EACH OWNER OF ANY LOT BY ACCEPTANCE OF A DEED THEREFORE, WHETHER OR NOT IT SHALL BE SO EXPRESSED IN ANY SUCH DEED OR OTHER CONVEYANCE, SHALL BE AND HEREBY IS DEEMED TO COVENANT AND AGREE TO PAY TO THE ASSOCIATION, ASSESSMENTS FOR THE PURPOSES MENTIONED IN ARTICLE VI, SECTION 2, HEREIN, SUCH ASSESSMENTS TO BE FIXED, ESTABLISHED AND COLLECTED FROM TIME TO TIME AS HEREINAFTER PROVIDED.

SECTION 2. PURPOSE OF ASSESSMENTS. THE ASSESSMENTS LEVIED BY THE ASSOCIATION SHALL BE USED EXCLUSIVELY FOR THE PURPOSE OF PROMOTING THE RECREATION, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE SPLIT ROCK THIRD ADDITION. ASSESSMENTS MUST BE APPROVED BY THE AFFIRMATIVE VOTES OF 70% OF THE VOTES OF ALL THE VOTES OF ALL THE OWNERS OF ALL OF THE LOTS SUBJECT TO THESE COVENANTS. SAID ASSESSMENTS SHALL BE UTILIZED FOR PURPOSES INCLUDING BUT NOT LIMITED TO INSURANCE, REPAIRS, REPLACEMENT, ADDITIONS, AND FOR THE COST OF LABOR, PUBLIC UTILITIES, EQUIPMENT, MATERIALS, MANAGEMENT, AND SUPERVISION.

SECTION 3. SPECIAL ASSESSMENTS. THE ASSOCIATION MAY LEVY SPECIAL ASSESSMENTS FOR THE COST OF REPAIR OF DAMAGE TO PUBLIC IMPROVEMENTS WHICH HAS BEEN IDENTIFIED TO HAVE BEEN CAUSED BY THE OWNER OR OTHER PERSON UNDER THE DIRECTION OF THE OWNER OF A SPECIFIC LOT OR LOTS. SAID ASSESSMENTS MUST BE APPROVED BY THE AFFIRMATIVE VOTE OF 70% OF THE VOTES OF ALL THE OWNER OF THE LOTS SUBJECT TO THESE COVENANTS.

SECTION 4. BASIS OF ASSESSMENTS. LOTS OWNED BY THE OWNER-DEVELOPER SHALL PAY THE ASSESSMENTS AT ONE-HALF (1/2) THE RATE OF OTHER LOTS. ASSESSMENTS SHALL BE DETERMINED BY DIVIDING THE TOTAL AMOUNT OF THE ASSESSMENT AS PREVIOUSLY AUTHORIZED BY THE MEMBERSHIP BY THE TOTAL NUMBER OF LOTS AS DETERMINED BY THE FOLLOWING FORMULA: EACH LOT OWNED BY THE OWNER-DEVELOPER SHALL BE COUNTED AS ONE HALF (1/2) LOT FOR THIS PURPOSE AND EACH LOT OWNED OTHER THAN BY THE OWNER-DEVELOPER SHALL BE COUNTED AS ONE LOT.

SECTION 5. DATES OF ASSESSMENTS. THE DUE DATE OF ANY ASSESSMENT SHALL BE AS INDICATED BY THE RESOLUTION AUTHORIZING SUCH ASSESSMENT.

SECTION 6. WRITTEN NOTICE OF ASSESSMENTS. AT LEAST THIRTY (30) DAYS PRIOR TO THE DUE DATE OF THE ASSESSMENT, THE ASSOCIATION SHALL PROVIDE OWNERS WITH WRITTEN NOTICE OF THE AMOUNT OF THE ASSESSMENT DUE. NOTICE SHALL BE DEEMED TO HAVE BEEN PROPERLY GIVEN WHEN MAILED, POSTAGE PREPAID, TO THE LAST KNOWN ADDRESS OF THE PERSON WHO APPEARS AS MEMBER OR OWNER ON THE RECORDS OF THE ASSOCIATION AT THE TIME OF THE MAILING.

SECTION 7. RESPONSIBILITY FOR ASSESSMENTS. ASSESSMENTS, CHARGES, AND INTEREST THEREON, FOR ASSESSMENTS, SHALL BE THE PERSONAL OBLIGATION OF THE OWNERS OF EACH LOT AT THE TIME THE ASSESSMENT BECOMES DUE.

SECTION 8. LIEN FOR ASSESSMENTS AND CHARGES. THE ASSESSMENTS, CHARGES AND INTEREST THEREON, TOGETHER WITH COSTS OF COLLECTION, SHALL BE CHARGES UPON THE LAND SHALL BE A CONTINUING LIEN UPON THE LOT AGAINST WHICH EACH SUCH ASSESSMENT IS MADE IF THE ASSESSMENT IS NOT PAID WHEN DUE. SAID LIEN SHALL BE A CONTINUING LIEN ON THE PROPERTY WHICH SHALL BIND THE PROPERTY IN THE HANDS OF THE THEN OWNER, HIS HEIRS, DEVISEES, PERSONAL REPRESENTATIVES, GRANTEE, AND ASSIGNS.

SECTION 9. ENFORCEMENT OF LIEN. IF THE ASSESSMENT IS NOT PAID WITHIN THIRTY (30) DAYS AFTER DUE, IT SHALL BE DECLARED DELINQUENT, AND THE ASSESSMENT SHALL BEAR INTEREST FROM THE DUE DATE AT THE MAXIMUM LEGAL RATE AND THE ASSOCIATION MAY BRING AN ACTION AT LAW AGAINST THE OWNER PERSONALLY OBLIGATED TO PAY THE SAME OR FORECLOSE THE LIEN AGAINST THE PROPERTY, AND THERE SHALL BE ADDED TO THE AMOUNT OF SUCH ASSESSMENT THE COSTS OF AND LEGAL FEES INCURRED IN ANY SUCH ACTION, AS PERMITTED BY LAW. IN THE EVENT A JUDGMENT IS OBTAINED, SUCH JUDGMENT SHALL INCLUDE INTERESTS ON THE ASSESSMENT AS PROVIDED BY LAW, TOGETHER WITH THE COSTS OF THE ACTION. NO OWNER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE COMMON PROPERTIES OR ABANDONMENT OF HIS LOT.

SECTION 10. EXEMPT PROPERTY. THE FOLLOWING PROPERTY SUBJECT TO THE DECLARATION SHALL BE EXEMPT FROM THE ASSESSMENTS, CHARGES AND LIENS CREATED HEREIN:

(A) ALL PROPERTIES EXEMPTED FROM TAXATION BY THE LAWS OF THE STATE OF SOUTH DAKOTA UPON THE TERMS AND TO THE EXTENT OF SUCH LEGAL EXEMPTION. NOTWITHSTANDING ANY PROVISION HEREIN, NO LAND OR IMPROVEMENTS DEVOTED TO DWELLING USE SHALL BE EXEMPT FROM SAID ASSESSMENTS, CHARGES OR LIENS.

SECTION 11. SUBORDINATION OF LIEN. THE LIEN FOR ASSESSMENTS SHALL BE SUBORDINATED TO THE LIEN OF ANY MORTGAGE OR MORTGAGES NOW OR HEREAFTER PLACED ON THE PROPERTY SUBJECT TO THE ASSESSMENTS; PROVIDED, HOWEVER, THAT SUCH SUBORDINATION SHALL APPLY ONLY TO THE ASSESSMENTS WHICH HAVE BECOME DUE AND PAYABLE PRIOR TO A SALE OR TRANSFER OF SUCH PROPERTY PURSUANT TO A DECREE OF FORECLOSURE OR ANY OTHER PROCEEDING IN LIEU OF FORECLOSURE. SUCH SALE OR TRANSFER SHALL NOT RELIEVE SUCH PROPERTY FROM LIABILITY FOR ANY ASSESSMENTS THEREAFTER BECOMING DUE NOR FROM THE LIEN OF ANY SUCH SUBSEQUENT ASSESSMENT.

SECTION 12. CERTIFICATE OF PAYMENT. THE ASSOCIATION SHALL UPON DEMAND AT ANY TIME FURNISH TO ANY OWNER A CERTIFICATE IN WRITING SIGNED BY AN

OFFICER OF THE SPLIT ROCK SECOND ADDITION HOME OWNERS ASSOCIATION SETTING FORTH WHETHER SAID ASSESSMENT HAS BEEN PAID. SAID SUCH CERTIFICATE SHALL BE CONCLUSIVE EVIDENCE OF THE PAYMENT.

ARTICLE VII EASEMENTS RESERVED

AN EASEMENT, 10 FEET IN WIDTH ON EITHER SIDE OF ALL LOT LINES AND UPON ALL THE AREA AROUND THE LAKE BELOW A POINT TEN FEET IN ELEVATION ABOVE THE TOP OF THE LAKE DRAINAGE STANDPIPE IN SPLIT ROCK HEIGHTS THIRD ADDITION, IN MINNEHAWA COUNTY ARE HEREBY EXPRESSLY RESERVED TO THE OWNER-DEVELOPER, ITS SUCCESSORS AND ASSIGNS. SUCH EASEMENT MAY BE USED AS PRIVATE WAYS FOR ACCESS TO REMOTE AREAS OR FOR THE LOCATION OF UNDERGROUND ELECTRIC OR COMMUNICATION CABLES, STORM DRAINAGE, SANITARY SEWERS, AND PIPELINES FOR SUPPLYING WATER OR GAS. THE OWNER OF ANY LOT IN THE SPLIT ROCK HEIGHTS THIRD ADDITION SHALL AT HIS OWN COST AND EXPENSE KEEP AND PRESERVE THAT PORTION OF THE EASEMENT WITHIN THEIR OWN PROPERTY AT ALL TIMES IN A GOOD CONDITION OF REPAIR AND MAINTENANCE AND NEITHER ERECT NOR PERMIT ERECTION OF ANY BUILDING, STRUCTURE OR FENCES OF ANY KIND WITHIN SAID EASEMENT WHICH MIGHT INTERFERE IN ANY WAY WITH THE PROPER MAINTENANCE, USE, OPERATION, REPAIR RECONSTRUCTION AND PATROLLING OF ANY OF THE UTILITY SERVICES LOCATED THEREIN.

ARTICLE VIII RESIDENTIAL AREA COVENANTS

SECTION 1. LAND USE AND BUILDING TYPE. NO LOT SHALL BE USED EXCEPT FOR RESIDENTIAL PURPOSES EXCLUSIVELY EXCEPT AS PROVIDED IN SECTION 6A HEREOF. NO BUILDING SHALL BE ERECTED, ALTERED, PLACED, OR PERMITTED TO REMAIN ON ANY LOT OTHER THAN ONE DETACHED SINGLE FAMILY DWELLING, WHICH DWELLING SHALL BE SUBJECT TO THE LIMITATIONS PROVIDED BY SECTION 2 HEREOF.

SECTION 2. APPROVAL OF PLANS. NO BUILDING, FENCE, WALL OR OTHER STRUCTURE SHALL BE COMMENCED, ERECTED OR MAINTAINED NOR SHALL ANY ADDITION TO OR CHANGE OR ALTERATION HEREIN BE MADE UNTIL THE PLANS AND SPECIFICATIONS SHOWING THE NATURE, KIND, SHAPE, HEIGHTS, MATERIALS, FLOOR PLANS, LOCATION AND APPROXIMATE COST OF SUCH STRUCTURE SHALL HAVE BEEN SUBMITTED TO AND APPROVED IN WRITING BY DEVELOPER, AS PROVIDED FOR IN SECTION 3 BELOW.

IN THE EVENT SAID DEVELOPER FAILS TO APPROVE OR DISAPPROVE SUCH DESIGN AND LOCATION WITHIN THIRTY DAYS AFTER SAID PLANS AND SPECIFICATIONS HAVE BEEN SUBMITTED TO IT, SUCH APPROVAL WILL NOT BE REQUIRED AND THIS COVENANT WILL BE DEEMED TO HAVE BEEN FULLY COMPLIED WITH.

WHEN 90% OF THE LOTS HAVE BEEN SOLD BY THE OWNER-DEVELOPER, THE APPROVALS REQUIRED HEREIN SHALL BE THE RESPONSIBILITY OF THE ASSOCIATION.

SECTION 3. COMMITTEE. THE OWNER-DEVELOPER, OR THE ASSOCIATION, TOGETHER WITH THEIR CONSULTANTS SHALL CONSTITUTE THE COMMITTEE. THE COMMITTEE SHALL PERFORM THOSE DUTIES AND FUNCTIONS AS SET FORTH IN THESE COVENANTS.

SECTION 4. BUILDING CODE AND ZONING. BUILDING LOCATIONS, BUILDING CONSTRUCTION, LANDSCAPING AND ANY AND ALL OTHER IMPROVEMENTS MADE TO LOTS LOCATED WITHIN THIS DEVELOPMENT MUST CONFORM TO ORDINANCES OF MINNEHaha COUNTY, SOUTH DAKOTA, AS AMENDED, AS MINIMUM STANDARDS.

SECTION 5. OUTBUILDINGS. SUITABLE OR NECESSARY OUTBUILDINGS TO SERVE THE PRINCIPAL STRUCTURE MUST BE PERMANENTLY CONSTRUCTED, AND MUST CONFORM IN EXTERIOR APPEARANCE AND DESIGN TO THE PRINCIPAL STRUCTURE ON THE LOT. ALL DWELLINGS OR STRUCTURES SHALL BE PLACED ON A SOLID CONCRETE FOUNDATION.

SECTION 6. TEMPORARY STRUCTURES. NO STRUCTURES OF TEMPORARY CHARACTER, TRAILER, BASEMENT, TENT, SHACK, GARAGE, BARN OR OTHER OUTBUILDINGS SHALL BE USED ON ANY LOT AT ANY TIME AS A RESIDENCE, EITHER TEMPORARILY OR PERMANENTLY.

(A) EXCEPTION. A TEMPORARY SALES OFFICE MAY BE CONSTRUCTED BY DEVELOPER OR A HOME MAY BE USED BY DEVELOPER AS A SALES OFFICE DURING THE DEVELOPMENT PERIOD.

SECTION 7. REMOVAL OF SOIL AND GRADE LEVEL. NO SOIL MAY BE REMOVED FROM THIS ADDITION RESULTING FROM ANY EXCAVATION WITHOUT THE PRIOR APPROVAL OF DEVELOPER, AND THERE SHALL BE NO MATERIAL CHANGE IN GRADE LEVELS AS THEY NOW EXIST WITHOUT PRIOR APPROVAL OF DEVELOPER. THE GRADE LEVEL AT THE LOT LINE MAY NOT BE CHANGED WITHOUT APPROVAL IN WRITING FROM DEVELOPER.

SECTION 8. DRIVEWAY DRAINAGE PIPES. AL DRIVEWAYS TO TOWNSHIP ROADS SHALL HAVE STEEL OR CONCRETE DRAINAGE PIPES INSTALLED OF AT LEASE 18 INCHES INSIDE DIAMETER.—ANY EXCEPTIONS FROM THIS MUST BE APPROVED IN WRITING BY THE DEVELOPER OR THE ASSOCIATION.

SECTION 9. HEDGES OR FENCES. NO FENCE OF HEDGE SHALL BE ERECTED, PLACED OR ALTERED ON ANY LOT NEARER TO ANY STREET THAN THE MINIMUM BUILDING SETBACK LINE AS PROVIDED BY THE ORDINANCES OF THE CITY OF SIOUX FALLS.

SECTION 10. REPLATTING OR SUBDIVIDING. NO ONE, EXCEPT THE DEVELOPER, SHALL AT ANY TIME EVER RE-PLAT, SUBDIVIDE, OR RESUBDIVIDE ANY LOT INTO A SMALLER LOT, OR IN ANY OTHER MANNER CHANGE THE PLAT OF SPLIT ROCK HEIGHTS SECOND ADDITION, AS THE SAME IS NOW SHOWN ON THE RECORDED PLAT OF THIS ADDITION WITHOUT PRIOR APPROVAL OF THE DEVELOPER UNTIL THE AREA IS ANNEXED BY THE CITY OF SIOUX FALLS; PROVIDED, HOWEVER, LOT OWNERS MAY ACQUIRE LAND FROM ADJACENT LOTS FOR THE PURPOSE OF INCREASING THE SIZE OF THEIR LOT, BUTY ANY LOT SO INCREASED IN SIZE MAY NEVER CONTAINED MORE THAN ONE DETACHED SINGLE FAMILY DWELLING.

SECTION 11. LIVESTOCK AND POULTRY. NO ANIMALS LIVESTOCK OR POULTRY OF ANY KIND SHALL BE RAISED, BRED, OR KEPT ON ANY LOT EXCEPT THAT DOGS, CATS OR OTHER HOUSEHOLD PETS MAY BE KEPT, BRED, OR MAINTAINED FOR ANY COMMERCIAL PURPOSE; AND UP TO TWO HORSES MAY BE KEPT IF THE LOT SIZE IS MORE THAN FOUR ACRES AND THE DEVELOPER APPROVES THE FACILITLES FOR KEEPING THEM.

SECTION 12. NUISANCES. NO NOXIOUS OR OFFENSIVE TRADE OR ACTIVITY, AS DEFINED BY LAW, SHALL BE CARRIED ON UPON ANY LOT IN SAID ADDITION NOR SHALL ANYTHING BE DONE WHICH MAY BE OR BECOME AN ANNOYANCE OR NUISANCE AS

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DEFINED BY LAW, TO THE NEIGHBORHOOD OR INDIVIDUALS RESIDING OR OWNING PROPERTY THEREIN.

SECTION 13. GARBAGE AND REFUSE DISPOSAL. NO LOT SHALL BE USED OR MAINTAINED AS A DUMPING GROUND FOR RUBBISH OR TRASH. TRASH, GARBAGE OR OTHER WASTE SHALL NOT BE KEPT EXCEPT IN SANITARY CONTAINERS.

SECTION 14. SIGNS. NO SIGN OF ANY KIND SHALL BE DISPLAYED TO THE PUBLIC VIEW ON ANY LOT EXCEPT ONE SIGN OF NOT MORE THAN FIVE SQUARE FEET ADVERTISING A RESIDENCE FOR SALE OR RENT. OR SIGNS USED BY A BUILDER TO ADVERTISE THE PROPERTY DURING THE CONSTRUCTION AND SALES PERIOD. ON VACANT LOTS, NO SIGNS SHALL BE OVER THREE SQUARE FEET.

SECTION 15. VACANT LOTS. OWNERS OF VACANT LOTS MUST KEEP THEM NEAT AND CLEAN IN APPEARANCE AND MUST MAINTAIN THEM BY MOWING AT LEAST TWICE A YEAR. UPON FAILURE TO DO THIS, AND AFTER A TEN DAY WRITTEN NOTICE BY CERTIFIED MAIL IS GIVEN, THE ASSOCIATION MAY PERFORM SUCH MAINTENANCE AS NECESSARY AND BILL THE LOT OWNER FOR THE EXPENSE INCURRED. IF PAYMENT IS NOT MADE WITHIN 60 DAYS A LIEN MAY BE FILED FOR THE COST PLUS INTEREST AT THE APPLICABLE RATE PERMITTED BY LAW.

SECTION 16. TREE PLANTING. NO BOX ELDER, COTTONWOOD, CHINESE ELM OR POPULAR TREES SHALL BE PLANTED ON ANY LOT IN THIS ADDITION.

SECTION 17. EXCEPTIONS THE RESIDENTIAL AREA COVENANTS CONTAINED IN ARTICLE VIII, SECTION 1 HEREIN BELOW, SHALL NOT APPLY TO THE FOLLOWING LOTS:

ARTICLE IX GENERAL PROVISIONS

SECTION 1. DURATION. THESE COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS AS HEREIN DECLARED, SHALL RUN WITH THE LAND AND BIND ALL PARTIES CLAIMING UNDER THEM AND SHALL INURE TO THE BENEFIT OF AND BE ENFORCEABLE BY THE ASSOCIATION OR THE OWNER OF ANY LOT SUBJECT TO THIS DECLARATION, THEIR RESPECTIVE LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS, GRANTEEES AND ASSIGNS, FOR A PERIOD OF 25 YEARS FROM THE DATE THAT THIS DECLARATION IS RECORDED, AFTER WHICH TIME SAID COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS SHALL BE AUTOMATICALLY RENEWED FOR SUCCESSIVE PERIODS OF TEN (10) YEARS. THESE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS MAY BE AMENDED AT ANY TIME BY THE FILING OF AN INSTRUMENT SIGNED BY THE OWNERS OF TWO-THIRDS (2/3) OF THE LOTS OF EACH CLASS OF MEMBERS.

SECTION 2. ENFORCEMENT. ENFORCEMENT OF THESE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENT SHALL BE BY ANY PROCEEDING AT LAW OR IN EQUITY AGAINST ANY PERSON OR PERSONS VIOLATING OR ATTEMPTING TO VIOLATE ANY COVENANT, CONDITION, RESTRICTION OR EASEMENT, EITHER TO RESTRAIN VIOLATION OR TO RECOVER DAMAGES AND TO ENFORCE ANY LIEN CREATED HEREBY. THE RIGHTS OF ASSOCIATION MEMBERS OR ANY OWNER TO ENFORCE ANY OF THE COVENANTS, CONDITIONS, RESTRICTIONS OR EASEMENTS SHALL NOT BE LIMITED BY THE FAILURE OF THE ASSOCIATION OR ANY OWNER TO ENFORCE

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SECTION 3. NOTICES. ANY NOTICE REQUIRED TO BE SENT TO ANY MEMBER OR OWNER UNDER THE PROVISIONS OF THIS DECLARATION SHALL BE DEEMED TO HAVE BEEN PROPERLY SENT AND MAILED POSTAGE PREPAID TO THE LAST KNOWN ADDRESS OF THE PERSON WHO APPEARS AS MEMBER OR OWNER ON THE RECORDS OF THE ASSOCIATION AT THE TIME OF SUCH MAILING.

SECTION 4: CONSTRUCTION. WORDS AND PHRASES HEREIN, INCLUDING ACKNOWLEDGEMENTS HEREOF, IF ANY, SHALL BE CONSTRUED AS IN THE SINGULAR OR PLURAL NUMBER, AND AS MASCULINE, FEMININE OR NEUTRAL GENDER, ACCORDING TO THE CONTEXT.

SECTION 5. AMENDMENTS. UNTIL 90% OF THE LOTS IN SPLIT RICK HEIGHTS SECOND ADDITION ARE SOLD BY THE OWNER-DEVELOPER, THE OWNER-DEVELOPER MAY AMEND THESE COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND.

SECTION 6. SEVERABILITY. INVALIDATION OF ANY OF THESE COVENANTS BY JUDGMENT, STATUTE, OR COURT ORDER SHALL IN NO WAY AFFECT ANY OF THE OTHER PROVISIONS WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, THE DEVELOPER HAS EXECUTED THIS DECLARATION THE DAY AND YEAR FIRST ABOVE WRITTEN.

OWNER-DEVELOPER: JOHN H. HARR
GERALD A. HARR