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Polk County Iowa  
TIMOTHY J. BRIEN RECORDER  
File# 2007-00052048  
BK 11987 PG 210-216

**RETURN TO:**

Prepared by & Return to: Timothy C. Hogan, 3101 Ingersoll Ave., Des Moines, IA 50312 (515) 279-9059

**DECLARATION OF RECIPROCAL COVENANTS, AND RESTRICTIONS**

**THIS DECLARATION** is made this 7th day of December, 2006 by **TRADITION, L.C.**, an Iowa limited liability company ("Declarant"), on behalf of itself and its successors and assigns forever.

**WHEREAS**, Declarant is the owner and developer of the real property described as follows (the "Property"):

**SEE EXHIBIT "A" ATTACHED HERETO**

**WHEREAS**, Declarant desires to establish certain easements, covenants and restrictions with respect to the lots located within the Property for the mutual and reciprocal benefit of the Lots and any future lots established by the subdivision of the Property and the present and future owners of the Lots (individually the "Lot" and collectively the "Lots").

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any rights, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**1. MEMBERSHIP.** Every Owner of a Lot shall be a Member of the Tradition Commercial Owners Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa, 2005 (the "Association"). Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership.

**2. VOTING.** Notwithstanding any other provision of this Declaration, Declarant shall be the sole voting Member of the Association until Declarant no longer owns any portion of any Lot, or until Declarant waives, in writing, its right to be the sole voting member. The allocation of voting by the Owners shall be determined by a fraction in which the numerator is the total number of square feet of the Lot and the denominator is the total square feet of all of the Lots.

**ARTICLE II**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

1. **ASSESSMENT.** Each Owner shall pay to the Association his/her/its proportionate share of the cost of the maintenance and insurance obligations incurred by the Association, such assessment to be established and collected as hereinafter provided. The Owner's proportionate share shall be calculated by applying the fraction referenced in Article I, Paragraph 2 above (the "Proportionate Share") to the total cost of the maintenance and insurance. The assessment, together with late fees, interest, costs and reasonable attorney's fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the joint and several personal obligation of each person who was the Owner of the Lot at the time when the assessment became due.

2. **PAYMENT OF ASSESSMENT.** Each Owner shall pay to the Association on the first day of each month, in advance, such amount as the Board of Directors of the Association shall estimate to be equal to one-twelfth (1/12th) of the Owner's anticipated assessment for the ensuing year. In the event the total of the monthly assessments paid by an Owner exceeds the expenses incurred by the Association for that year, the excess shall be carried over and credited to the monthly assessments the following year. In the event the assessments paid by the Owners are insufficient to pay the actual costs incurred by the Association, then the Board of Directors of the Association shall levy a special assessment against each Lot for its Proportionate Share of the deficit. The Owners shall pay to the Association the special assessment due within ten (10) days after the reconciliation is delivered. Declarant shall not be liable for any assessments upon Lots owned by it.

3. **NONPAYMENT OF ASSESSMENT.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 15% per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of the Owner's Lot.

**ARTICLE III**  
**MAINTENANCE, INDEMNIFICATION AND INSURANCE BY ASSOCIATION**

1. **MAINTENANCE OF MONUMENT SIGNS.** Declarant hereby burdens the Owners by and through the Association with maintenance of the monument signs located at (i) the corner of SW Oralabor Road and SW State Street; (ii) the intersection of SW State Street and SW Tradition Drive; and (iii) the intersection of SW Oralabor Road and SW Franklin Drive (the "Monument Signs"). Such maintenance shall include performance of all routine repairs and maintenance, including maintenance of the painting, brick replacement, landscaping, irrigation system and electric and ground lighting systems. The maintenance costs relating to the Monument Signs shall be included in the common charges assessed against the Owners of the Lots by the Association.

2. **MAINTENANCE OF MONUMENT SIGN IN OUTLOT.** Declarant hereby burdens the Owners by and through the Association with maintenance of the monument sign located at the intersection of SW Oralabor Road and SW Highpointe Drive within the future Outlot Z of Tradition Plat 6, Ankeny, Iowa (the "Outlot Monument Sign"). Such maintenance shall include performance of all routine repairs and maintenance, including maintenance of the painting, brick replacement, landscaping, irrigation system and electric and ground lighting systems. The maintenance costs relating to the Outlot

Monument Sign shall be included in the common charges assessed against the Owners of the Lots by the Association. The Outlot Monument Sign and the landscape plantings shall not exceed fifteen (15) feet in height above grade. The Outlot Monument Sign may only identify the Property, and surrounding areas, using the term "Tradition"; such as "Tradition Office Park", "Tradition Office Park, A Planned Community", or "Tradition, A Planned Community" and no other information.

**3. MAINTENANCE OF BOULEVARD ISLANDS.** Declarant hereby burdens the Owners by and through the Association with maintenance of the boulevard islands located in SW Tradition Drive, SW Franklin Drive, SW 28th Street and SW Highpointe Drive (the "Boulevard Islands"). Such maintenance shall include, but is not limited to, general lawn mowing and landscape maintenance, control of weed growth and/or preventative pesticides to control infestation of weeds and insects and general policing of the boulevard islands to keep the area free from debris and trash. The maintenance costs relating to the Boulevard Islands shall be included in the common charges assessed against the Owners of the Lots by the Association.

**4. INDEMNIFICATION.** The Association hereby indemnifies and saves the Owners harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments arising from personal injury, death or property damage and occurring on or from the maintenance of the Monument Signs and the Boulevard Islands, except if caused by the act or negligence of the Owner or his/her/its employees, agents or representatives.

**5. LIABILITY INSURANCE.** The Board of Directors of the Association shall procure and maintain in full force and effect throughout the term of this Declaration general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about the Monument Signs and Boulevard Islands with coverage limits of not be less than \$2,000,000 combined single limit per occurrence. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the Association which may cover other property. The Board of Directors of the Association shall also obtain any other insurance required by law to be maintained, including but not limited to, worker's compensation insurance, and such other insurance as the Board of Directors of the Association shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf to the Association. Each Owner shall be deemed to have delegated to the Board of Directors the Owner's right to adjust with the insurance companies all losses under policies purchased by the Association.

**ARTICLE IV**  
**ARCHITECTURAL CONTROL**

**1. ARCHITECTURAL REVIEW COMMITTEE.** No building, fence, wall or other structure, except as originally constructed by or on behalf of Declarant, shall be commenced, erected, altered, maintained or permitted to remain upon the Property, nor shall any exterior addition to or change or alteration thereof be made until plans and specifications showing the plot layout and all exterior elevations, with materials and colors, and structural designs, signs and landscaping shall have been submitted to and approved in writing by the Architectural Review Committee composed of three (3) or more representatives appointed by the Board of Directors of the Association. Any change in the appearance or the color of any part of the exterior of a building shall be deemed a change thereto and shall require the approval therefor as above provided.

**ARTICLE V**  
**MISCELLANEOUS**

**1. DURATION.** All easements and covenants contained in this Declaration shall run with and against the land so described and shall, except to the extent otherwise specifically provided in this Declaration, be a benefit thereto and a burden thereon. In such event the terms of this Declaration shall be deemed to continue to apply to and benefit and burden each such Lot and to create the same rights, easements and obligations as between and among the Lots as are herein created.

**2. AMENDMENTS.** This Declaration may be amended by an instrument recorded in the office of the County Recorder by the affirmative vote of not less than two-thirds (2/3) of the Owners pursuant to the allocation of voting by the Owners contained in this Declaration, provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Notwithstanding the foregoing, this Declaration may be amended by Declarant without approval by the other Owners so long as Declarant has any ownership interest in any Lot.

**3. SUCCESSORS.** This Declaration shall be binding upon and inure to the benefit of the parties designated herein, their heirs, executors, administrators, beneficiaries, successors and assigns; provided that the respective Owners from time to time of the Lots forming the Property shall be liable in money damages and subject to the action for specific performance only for breaches of the undertakings contained in this Declaration occurring during their respective period of ownership of each Lot; provided further, however, that such successor-in-title to any of the Lots shall be subject only to an action for specific performance with respect to breaches of undertakings hereunder which occurred during the ownership of any predecessor-in-title.

**4. RIGHT OF ENFORCEMENT.** In the event of a violation, or threatened violation, of any of the covenants, conditions, and restrictions herein enumerated, Declarant, the Owners and all parties claiming under them shall have the right to enforce the covenants, conditions, and restrictions contained herein and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof. Failure of the Association or any Owner to enforce any covenant, condition or restriction of this Declaration, the Articles of Incorporation or Bylaws of the Association, or the rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to enforce the same thereafter.

**ARTICLE VI**  
**ADDITION OR REMOVAL OF PROPERTY**

**1. SUBJECTING ADDITIONAL LAND TO DECLARATION.** Declarant shall have the irrevocable right to subject additional land to the terms of this Declaration at any time in the future without the consent of the Association. The additional land shall be automatically subject to the applicable terms and conditions of this Declaration and Owners of Lots within the additional land shall automatically become Members of the Association in the same fashion as described in this Declaration and shall be subject to the same applicable terms, conditions, duties and assessments as described in this Declaration. Declarant shall signify the addition of land by filing an amendment to this Declaration with the County Recorder. No approval of the Association or any other person shall be necessary.

**2. REMOVING LAND FROM OPERATION OF DECLARATION.** Declarant shall have the right now and in the future to remove any portion of the Property from the operation of this Declaration provided that the portion so removed has not yet been platted into individual lots and a plat for that portion has not been filed of record with the County Auditor; provided, however, in the event any

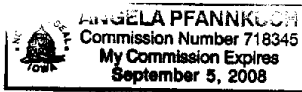
such removal of land shall result in an increase of twenty percent (20%) or more in the assessment of any Owner who remains liable for assessments to the Association on the date of such removal and such increase is attributable solely to the removal of such land, then such land may not be removed from the operation of this Declaration without the prior written consent of any such Owners. Declarant shall signify this removal by filing an amendment to this Declaration with the County Recorder. No approval of the Association or any other person shall be necessary.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

**TRADITION, L.C.,**  
an Iowa limited liability company  
By: \_\_\_\_\_  
John D. Gamble, Secretary

STATE OF IOWA        )  
                              )ss:  
COUNTY OF DALLAS )

On this 1 day of December, 2006, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared JOHN D. GAMBLE, to me personally known, who being by me duly sworn did say that he is Secretary of the limited liability company executing the foregoing instrument, that no seal has been procured by the limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its managers; and that JOHN D. GAMBLE acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.



By: Angela Pfannkuch  
Printed Name: Angela Pfannkuch  
Notary Public

**EXHIBIT "A"**

A PART OF THE NORTHEAST QUARTER OF SECTION 34 AND A PART OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 34; THENCE SOUTH 00°27'16" WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 40.01 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SW ORALABOR ROAD AND THE POINT OF BEGINNING; THENCE NORTH 89°45'11" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 67.72 FEET; THENCE SOUTH 69°27'13" EAST CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 168.90 FEET; THENCE NORTH 83°14'48" EAST CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 27.16 FEET; THENCE SOUTH 07°40'59" EAST, 266.05 FEET; THENCE NORTH 89°29'21" WEST, 170.68 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 232.50 FEET; WHOSE ARC LENGTH IS 367.28 FEET AND WHOSE CHORD BEARS SOUTH 45°15'19" WEST, 330.27 FEET; THENCE SOUTH 00°00'00" EAST, 18.89 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 232.50 FEET, WHOSE ARC LENGTH IS 107.75 FEET AND WHOSE CHORD BEARS SOUTH 13°16'37" EAST, 106.79 FEET; THENCE SOUTH 26°33'14" EAST, 18.50 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 267.50 FEET, WHOSE ARC LENGTH IS 242.08 FEET AND WHOSE CHORD BEARS SOUTH 00°37'42" EAST, 233.90 FEET; THENCE SOUTH 25°17'49" WEST, 59.84 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 170.00 FEET, WHOSE ARC LENGTH IS 193.33 FEET AND WHOSE CHORD BEARS SOUTH 57°52'37" WEST, 183.08 FEET; THENCE SOUTH 89°32'35" EAST, 56.35 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SW STATE STREET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 7514.44 FEET, WHOSE ARC LENGTH IS 67.33 FEET AND WHOSE CHORD BEARS NORTH 00°11' 27" EAST, 67.33 FEET; THENCE NORTH 06°06'25" EAST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY, 253.95 FEET; THENCE NORTH 07°09'31" WEST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY, 302.51 FEET; THENCE NORTH 00°27'48" EAST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY, 457.59 FEET TO SAID SOUTHERLY RIGHT OF WAY OF SW ORALABOR ROAD; THENCE SOUTH 89°30'01" EAST ALONG SAID SOUTHERLY RIGHT OF WAY, 325.21 FEET TO THE POINT OF BEGINNING.

AND

A PART OF THE NORTHEAST QUARTER OF SECTION 34 AND A PART OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ¼ CORNER OF SAID SECTION 34; THENCE NORTH 00°26'57" EAST ALONG THE EAST LINE OF SAID SECTION 34, A DISTANCE OF 734.06 FEET TO THE NORTHERLY LINE OF TWIN GATES PLAT 2, AN OFFICIAL PLAT AND THE POINT OF BEGINNING; THENCE SOUTH 34°34'41" WEST ALONG SAID NORTHERLY LINE, 388.79 FEET TO THE NORTHWESTERLY CORNER OF SAID TWIN

GATES PLAT 2; THENCE NORTHERLY ALONG THE EASTERLY RIGHT OF WAY LINE OF SW STATE STREET AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 7514.44 FEET, WHOSE ARC LENGTH IS 1044.65 FEET AND WHOSE CHORD BEARS NORTH 04°33'07" WEST, 1043.81 FEET; THENCE SOUTH 89°32'35" EAST, 55.46 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 236.00 FEET, WHOSE ARC LENGTH IS 112.78 FEET AND WHOSE CHORD BEARS NORTH 76°46'01" EAST, 111.71 FEET; THENCE NORTH 49°01'03" EAST, 35.18 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 230.00 FEET, WHOSE ARC LENGTH IS 117.41 FEET AND WHOSE CHORD BEARS NORTH 39°55'16" EAST, 116.14 FEET; THENCE NORTH 25°17'49" EAST, 59.84 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS RADIUS IS 327.50 FEET, WHOSE ARC LENGTH IS 296.38 FEET AND WHOSE CHORD BEARS NORTH 00°37'42" WEST, 286.37 FEET; THENCE NORTH 26°33'14" WEST, 18.50 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 172.50 FEET, WHOSE ARC LENGTH IS 79.95 FEET AND WHOSE CHORD BEARS NORTH 13°16'37" WEST, 79.23 FEET; THENCE NORTH 00°00'00" WEST, 18.89 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 172.50 FEET, WHOSE ARC LENGTH IS 272.50 FEET AND WHOSE CHORD BEARS NORTH 45°15'19" EAST, 245.04 FEET; THENCE SOUTH 89°29'21" EAST, 57.36 FEET; THENCE SOUTH 10°48'29" EAST, 88.76 FEET; THENCE SOUTH 21°38'19" WEST, 210.83 FEET; THENCE SOUTH 09°06'00" EAST, 107.52 FEET; THENCE SOUTH 53°38'44" WEST, 62.06 FEET; THENCE SOUTH 45°14'46" EAST, 201.23 FEET; THENCE SOUTH 13°39'50" WEST, 92.41 FEET; THENCE SOUTH 63°02'34" WEST, 278.53 FEET; THENCE SOUTH 31°32'05" WEST, 115.61 FEET; THENCE SOUTH 24°22'47" WEST, 114.25 FEET; THENCE SOUTH 07°54'02" WEST, 96.61 FEET; THENCE SOUTH 19°00'45" EAST, 195.16 FEET; THENCE SOUTH 37°48'58" EAST, 205.88 FEET TO SAID NORTHERLY RIGHT OF WAY LINE OF TWIN GATES PLAT 2; THENCE SOUTH 34°34'41" WEST, 64.81 FEET TO THE POINT OF BEGINNING.

THE ABOVE TO BE KNOWN AS LOTS 1 - 6 IN TRADITION PLAT 1, ANKENY, POLK COUNTY, IOWA.

AND

LOTS 1 - 6 IN TRADITION PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF ANKENY, POLK COUNTY, IOWA.

AND

LOT 2 IN HIGHPOINTE NORTH PLAT 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF ANKENY, POLK COUNTY, IOWA.