

COMPLETED ✓

R Fee 50.00  
A Fee \_\_\_\_\_  
T Tax \_\_\_\_\_

Pottawattamie County, IA 2009-007314  
Recorder John Sciortino  
Book-Page: 2009-007314  
File Time: 05/29/2009 8 09:32:46 AM  
Rec-\$50.00 Aud-\$0.00 RMA-\$1.00 ECM-\$1.00  
Current Transfer Tax Paid: \$0.00



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
NAKOMA TOWNHOMES,  
A SUBDIVISION IN THE CITY OF CARTER LAKE, IOWA**  
Recorder's Cover Sheet

**Preparer Information:**

Leo P. Martin, 233 Pearl Street, Council Bluffs, IA 51503 (712) 328-3157

*Leo* **Taxpayer Information:**

Blue Sky, Inc., c/o Dennis L. Rochford, 4322 North 15<sup>th</sup> Street, Carter Lake, IA 51510

**Return Address:**

Leo P. Martin, 233 Pearl Street, Council Bluffs, IA 51503

**Grantor:**

Blue Sky, Inc., by Dennis L. Rochford, President

**Grantees:**

To The Public

**Legal Description:** Lots 1 through 6, Nakoma Townhomes Phase 1, a subdivision in Carter Lake, Pottawattamie County, Iowa.

**Document or instrument number if applicable:** \_\_\_\_\_

**COMPLETED**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
NAKOMA TOWNHOMES, A SUBDIVISION IN THE CITY OF CARTER LAKE, IOWA**

This Declaration of Covenants, Conditions and Restrictions for Nakoma Townhomes, a subdivision in Carter Lake, Iowa is made on this \_\_\_\_ day of May, 2009 by Blue Sky, Inc., an Iowa corporation, which is hereinafter identified as the "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Pottawattamie County, Iowa, more particularly described as follows:

Lots 1 through 6, Nakoma Townhomes Phase 1, a subdivision in Carter Lake,  
Pottawattamie County, Iowa.

WHEREAS, Declarant hereby declares that all of the property hereinabove described 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, all of said real property and shall be binding on all parties having any right, title or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure the benefit of each owner thereof.

**ARTICLE 1  
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Nakoma Townhome Owners Association, Inc. an Iowa nonprofit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to:

(a) The record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, and

(b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which the Seller retains title solely as security for the performance of the purchasers obligation under the contract.

Section 3. "Properties" shall mean and refer to:

Lots 1 through 6, Nakoma Townhomes Phase 1, a subdivision in Carter Lake,  
Pottawattamie County, Iowa.

together with and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any platted Lot shown upon any recorded subdivision map of the Properties.

Section 5. "Improved Lot" shall mean and refer to any Lot included within the Properties upon which shall be erected a dwelling the construction of which shall be at least 80% completed according to the plans and specifications for construction of said dwelling.

Section 6. "Assessable Lot" shall mean and refer to any Improved Lot which the Board of Directors of the Association determines is entitled to the benefits for which assessments are levied by the Associations as provided in the instrument.

Section 7. "Declarant" shall mean and refer to all persons and entities signing this instrument, their successors and assigns.

Section 8. "Common Area Improvements" shall mean and refer to (i) any improvements, including but not limited to signs, paving, curbs, landscaping, lighting standards, roadways, common storm drains, utility lines, sewers, lawn sprinklers and other service facilities, located from time to time on the Common area and (ii) any perimeter fencing on the Properties or Common Area and any signage which serves all of the Lots.

## ARTICLE II PROPERTY RIGHTS

Section 1. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed 60 days for any infraction by any such Owner, or member of such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

Section 2. Ownership of any Lot shall entitle the Owner or Owners thereof to such parking rights as shall be available upon such Lot.

## ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner is empowered to enforce the covenants. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

Section 2. In order to ensure that a quorum is present for all meetings of the members, and to allow for orderly management of the Association's affairs, it shall be the duty of each member to attend such meeting or execute and deliver to the Association a continuing proxy prepared by the Association. This continuing proxy shall operate in lieu of the actual attendance at the meeting by the specific member and shall be void if the member personally attends that meeting to exercise the member's right to vote. A Lot Owner may provide a superseding proxy to be voted by his duly authorized attorney in fact for one specific meeting only. The Proxy shall be subject to the terms of the Revised Iowa Nonprofit Corporation Act concerning revocability and life span of the proxy. Failure to attend personally or by proxy is a violation of this covenant.

The continuing proxy shall be voted by the President of the Association in his or her discretion at any meeting. It is noted that Iowa law requires that members holding 1/10<sup>th</sup> of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The continuing proxy shall provide on its face that it is valid on a continuous basis for an indefinite period of time until revoked in writing by the specific Lot Owner. All proxies shall be in writing and filed with the Secretary of the Association. Each proxy shall be freely revocable and shall automatically cease when the member giving such proxy shall cease to be an Owner of a Lot or at such earlier time shall be specified in the proxy or by operation of law.

Section 3. The Association shall have two classes of voting members, Class A Members and Class B Members, defined as follows:

Class A: Class A Members shall be the Owners of all Lots other than those Lots owned by Declarant or Lots which are subject to a mortgage or deed of trust in favor of Declarants. Each Class A Member shall be entitled to one vote for each Lot Owned.

When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities or both shall be Members provided however that the vote for such Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B: Blue Sky, Inc., the Declarant herein, is the only Class B Member. Each lot owned by Declarant and each Lot which are subject to a mortgage or deed of trust in favor of Declarant shall entitle the Declarant, as a Class B Member, to four votes for each such Lot. The Class B membership will terminate and be converted to Class A Membership (with each former Class B Member then entitled to one vote for each Lot owned) upon the occurrence of the first of the following dates:

- (a) The date on which the total votes outstanding in the Class A membership shall equal the total votes outstanding in the Class B membership, or
- (b) January 31, 2019

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. The Owner of each Lot grants a covenant in favor of each Assessable Lot and the Owner of each Assessable Lot, that by acceptance of a deed for any Lot or by entering into a contract for the purchase of any Lot, whether or not it shall be so expressed in such deed or in such contract for the purchase thereof, that it is, and shall be, deemed to covenant and agree to pay the Association:

- (1) Special assessments for capital improvements, and
- (2) Monthly assessment for exterior maintenance and other operational expenses with respect to each Assessable Lot as deemed necessary by the Association, and
- (3) Common Area maintenance assessments for repair, maintenance and other operational expenses with respect to the Common Area Improvements as seemed necessary by the Association, as such assessments shall be established and collected as hereinafter provided. The special assessments and monthly assessments together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon each Lot which each such Assessment shall be made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons, or entity who, or which, was the Owner of the property at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to such Owner's successors in title, unless expressly assumed by them.

Section 2. The Assessment levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents owning Lots and for exterior maintenance, and other matters as more fully set out in Article V and VI herein.

Section 3. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot a monthly maintenance assessment for the purpose of meeting the requirements of Section 1 of Article V herein for exterior maintenance and for other operational expenses of the Association, including but not limited to the costs of the insurance coverages referred to in Article X herein.

Section 4. The Association may levy special assessments from time to time against an Assessable Lot for the purpose of meeting the requirements of Section 2 Article V herein for the cost of any construction, reconstruction, repair or replacement of any capital improvements on such Lot, including fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

Section 5. The Board of Directors shall have the authority to levy and assess from time to time against an Assessable Lot any common area maintenance assessment for the purpose of meeting the requirements of Article VI herein for repair, maintenance and other operational expenses with respect to the Common Are Improvements.

**Section 6.** Written notice of a meeting called for the purpose of taking any action authorized under Sections 3, 4, or 5 of this Article shall be sent to all members of the Association not less than 10 days nor more than 50 days in advance of such meeting. At the first such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meeting shall be held within 60 days following the preceding meeting.

**Section 7.** The monthly assessments shall be paid pro-rata by the Owners of all Assessable Lots based upon the total number of Assessable Lots; provided however, the Board of Directors of the Association may equitably adjust such prorations if it determines that certain Assessable Lots on which all of the improvements are not yet completed do not receive all of the benefits for which such assessments are levied. The monthly assessments may be collected on a monthly or other periodic basis by the Association. The Board of Directors of the Association shall fix the amount of the monthly or other periodic assessments against each Assessable Lot. Written notice of the assessment shall be sent to every Lot Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Assessable Lots for which the cost of such construction, reconstruction, repair or replacement of any capital improvements occurs. The Association shall, upon, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether or not all assessments on a specified Assessable Lot have been paid. A properly executed certificate of the Association as to the status of assessments, on a particular Assessable Lot shall be binding upon the Association as of the date of its issue by the Association.

**Section 8.** Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal interest rate for written agreements allowable by law in the State of Iowa. Should any assessments remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any court having jurisdiction of actions for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment of title transfer of such Owner's Lot.

**Section 9.** The lien on the assessments provided for herein shall be subordinated to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

#### **ARTICLE V EXTERIOR MAINTENANCE**

The Association may provide exterior maintenance upon each Assessable Lot as set forth hereinafter.

**Section 1.** Monthly assessments levied against the Lots may be assessed for, but not limited to, the following:

(a) Maintenance of trees and shrubs, lawns, and other exterior landscaping improvements as originally installed by the builder, except such improvements as may be within the confines of any fenced in areas on any Assessable Lot or installed by or at the direction of the Owner, which improvements shall be the responsibility of the Owner. The Owner understands that the original landscape as installed by the builder is warranted for a period of one year from the time of planting. The Owner is responsible for replacement of all dead landscaping improvements after the one year warranty period expires and the owner agrees to allow the Association to replace such dead landscape improvements at the expense of the Owner of record at the time of replacement and the Owner shall reimburse the Association on demand. The Association shall have no duty to repair, replace or maintain any exterior concrete surfaces.

(b) Snow removal as to be determined by the guidelines set forth by the Board of Directors.

Section 2. Special assessments may be assessed for, but not limited to, the following:

(a) Maintenance, repair, and replacement roofs.

(b) Maintenance, repair, including painting, of all exterior walls, with the exception that the Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to, window glass and door glass. The Association shall not assume the duty to repair or replace any doors, door openers, decks, and cooling units for air conditions systems. However, the Association shall assume the duty to paint the exterior surfaces of exterior doors.

(c) Maintenance, repair, and replacement of gutters.

#### ARTICLE VI MAINTENANCE OF COMMON AREA IMPROVEMENTS

The Association may from time to time repair, maintain, and operate the Common Area Improvements, which such maintenance and repair may include, but not be limited to, the following:

(a) Snow removal as to be determined by the guidelines set forth by the Board of Directors of the Association;

(b) Repairing and replacing when necessary such artificial lighting facilities;

(c) Maintaining and repairing any and all common storm drains, utility lines, sewers and other service facilities which are necessary for the operations of the dwelling on the Lots;

(d) Payments of all electrical, water, and other utility charges or fees for services furnished to the common area of the Lots;

(e) Payment of all premiums for general public liability insurance insuring against claims for personal injury, death or property damage occurring in, upon or about the Common Area within the Lots.

As provided in this Article, the Board of Directors of the Association may levy and assess common area maintenance assessments against each Assessable Lot for the cost and expenses of the repair, maintenance and operations of the Common Area Improvements.

#### ARTICLE VII ARCHITECTURAL CONTROL

No building fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made, nor shall any trees, shrubs, or plantings be planted or maintained upon the Properties, until the plans and specifications therefore showing the nature, kind, shape, height, materials, color and location of

the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography, and in relation to other trees, shrubs and planting, by the Board of Directors of the Association. Failure of the board to act on such plans as submitted within thirty (30) days after the date of submission shall be deemed to be approval of such plans, and the Owner may proceed in accordance with such plans and specifications.

#### ARTICLE VIII PARTY WALLS

Section 1. Each wall which is built as part of the original construction of any dwelling upon the Lots, and which is placed on the dividing line between any adjoining Lots, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. The cost of reasonable repairs and maintenance of any party wall shall be shared by the owners who make use of such party wall in proportion to the length of each Lot and party wall.

Section 3. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owner or owners shall thereafter make use of such party wall, such other owner or owners shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, the right of any such owner or owners to call for a larger contribution from other owners under any furl of law regarding liability for negligent or willful acts or omissions.

Section 4. Notwithstanding any other provision of this Article, an owner who, by his negligent or willful act, causes the party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements and repair of damage caused by the elements.

Section 5. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each owner involved shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and all owners shall be bound by any decision arrived by the majority of all such arbitrators. Arbitration shall be governed by the terms of the Uniform Arbitrations Act, to the extent consistent with the foregoing provisions.

#### ARTICLE IX GENERAL RESTRICTIONS AND OTHER PROVISIONS

Section 1. Every Owner shall have full rights of ownership and full use and enjoyment of his Lot, subject to the following restrictions:

(a) Other than as carried on by the Declarant or its assigns, agents or successors, in respect to the sale, marketing, construction and improvement of the Lots or any other commercial activity on the Properties, no business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Properties, or, without the prior written authorization of the Association, shall any "For Sale" or "For Rent" sign be displayed by any Person, firm or corporation, bank, savings and loan association, lending institution, or insurance company who as holder of a deed of trust against any Lot acquired ownership thereof through foreclosure (or by deed in lieu of foreclosure), or the agent of any of them. Nothing in this Section is intended to restrict the right of any Lot Owner to rent or lease the Owner's Lot from time to time or to engage any Person, firm or corporation, to rent or lease said Lot and provide maid and janitorial services therefor, nor shall any provision hereof be deemed to prohibit an Owner from keeping his or her personal business or professional records or accounts therein, or

handling his or her personal business calls or correspondence therefrom, but all the express restrictions herein contained about use of displays and signs shall nonetheless be and remain in full force and effect and prohibits such activity concerning any rental or lease or attempts to rent or lease. In accordance with the foregoing, the Lots shall be and are restricted exclusively to residential use and no trade or business of any kind other than as set forth herein above may be conducted in or from a Lot.

(b) No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any part of the Property, other than non-exotic household pets. All pets shall be leashed when outside of the residential structure and patio area. No such pet shall be kept, bred, or maintained for any commercial purposes. The Board of Directors of the Association shall make reasonable rules and regulations for the accommodation of pets.

(c) No fences or enclosures of any type of nature whatsoever shall ever be constructed, erected, placed or maintained on any Lot within the Properties, unless such fences or enclosures shall have first been authorized in writing by the Association.

(d) No vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the properties shall be allowed on the Properties. The Association is expressly authorized to tow away, at an offending owner's expense, any vehicle referred to in this Section which is in violation hereof or in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked in the subdivision, except in an area, if any, designated by the Board of Directors or except as otherwise permitted by the Association's Board of Directors or Declarant.

(e) Except as placed or erected by Declarant or his assigns, agents or successors, no sign, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Properties subject to this Declaration, nor shall such Properties be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot thereof.

(f) No offensive or unsightly appearance shall be maintained or allowed to exist upon the Properties, nor shall any trash, ashes or other refuse be thrown, placed, or dumped upon any Lot, nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood. The Association shall have the right to require all owners to place trash and garbage in containers located in areas designated by the Association. No incinerators shall be kept or maintained on any Lot. All rubbish, trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

(g) No machinery or equipment of any kind shall be placed, operated or maintained upon the Properties, except such machinery or equipment as is usual and customary in connection with the Declarant's sales, marketing, maintenance or construction of buildings, improvements or structures which are within the permitted uses of such Property, and except that which Declarant or the Association may require or permit for the operation and maintenance of the Common Area Improvements.

(h) No Outside clothes lines or other outside facilities for drying or airing of clothes shall be erected, placed or maintained on any of the Lots.

(i) No improper, offensive, or unlawful use shall be made on any part of the Properties. All valid laws, zoning ordinances, and regulations of all government bodies having jurisdiction over the subdivision shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

(j) No exterior antennas, or satellite dish antennas, are permitted without the express written permission of the Association. In addition to the restrictions above, the Association shall have the right to make and to enforce reasonable rules and regulations governing the use of the Units and the Common Elements.



**ARTICLE X  
INSURANCE**

The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association for the Common Area and Common Area Improvements. The Association may provide Directors and Officers liability coverage insurance for the Association, for its Officers, and members of the Board of Directors. In addition, the Association may purchase such additional insurance against other hazards which may be deemed appropriate by the Board of Directors.

**ARTICLE XI  
ACCESS**

The Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

**ARTICLE XII  
EASEMENTS**

Section 1. The hereby is reserved in favor of the Owners, their families, guests, invitees and servants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the Common Area Improvements existing from time to time on the Properties, including but not limited to roadways, entrances, and exits and other service facilities located in, upon or under the Common Area, subject to such reasonable and uniformly applied rules and regulations as the Board of Directors of the Association may establish from time to time with respect to such use.

Section 2. There hereby is reserved in favor of and granted to the Owners non-exclusive easements under, through and across the Common Area for sewers, electricity, television, water, telephone and all other utility purposes, including the right to use if any such existing systems, structures, mains, sewers, conduits, lines, and other public utilities and service facilities. The grantee of such easement shall bear all costs related to the use of the easement and shall repair to the original specifications any damage to the Common Areas resulting from such use, provided the costs of maintaining and repairing common storm drains, utility lines, sewers and other service facilities are expenses in accordance with Article VI.

Section 3. Each owner of an Improved Lot shall, at its expense, construct, repair and maintain a sidewalk on such Lot adjacent to the Common Area if such sidewalk is required und the laws, ordinances or regulations of any governmental agency having jurisdiction over the Properties. If required, such sidewalk shall satisfy the specifications for sidewalks within the City of Carter Lake, Iowa, shall be located within ten (10) feet of the Common Area as designated by the Declaration, and shall be place prior to completion of the building improvements on such Lot. If an Owner fails to construct, repair, or maintain a required sidewalk, the Association may, but shall not be required to, provide for such construction, repair, or maintenance, and the cost to the Association for such construction, repair, or maintenance shall be specially assessed against such Lot the same as special assessments for capital improvements as provided in Article IV herein. There hereby is reserved in favor of the Owners and their tenants, agents, and invitees, and the agents and invitees of such tenants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the sidewalks existing from time to time within ten (10) feet of the Common Area. There hereby is further reserved in favor of the Association, its agents and contractors, the right to enter upon each Lot from time to time for the purpose of construction, repairing and maintaining the sidewalks in the event the Owner fails to provide for such construction, repair, or maintenance as provided in this Section 3.

**ARTICLE XIII  
GENERAL PROVISIONS**

**Section 1.** The Association, or any Owner of a Lot, shall have the right to enforce, by a proceeding at law or in equity, such restrictions, covenants, reservations, liens and charges now or hereinafter imposed by the provisions of the Declaration. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2.** Invalidation of any one or more of these covenants or restrictions, by judgments or court order, shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

**Section 3.** Declarant reserves the unilateral right to make additional adjoining property now owned by the Declarant subject to the terms of this Declaration as the adjoining property is platted in one or more additional phases of Nakoma Townhomes, a subdivision of Carter Lake, Iowa. Each Lot in the subsequent phase or phases of Nakoma Townhomes, a subdivision of Carter Lake, Iowa shall be made subject to the terms of this Declaration and the Owner of each such Lot shall be entitled to the same rights and be subject to the same duties as the Owner of a Lot made subject to this original Declaration. Subject to the unilateral right to amend reserved by the Declarant as described above, these Declarations may be amended at any time during the initial twenty (20) year term referred in Section 4, hereafter, by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots then covered by these Declarations. Any such amendment shall be valid only upon its being recorded in the same manner as Deeds shall be recorded at such time.

**Section 4.** These covenants and restrictions contained in this Declaration shall run with the land and shall be binding for an initial term of twenty (20) years from the date these Declarations are recorded, after which time they shall be automatically extended for successive periods of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed these Declarations of Covenants, Conditions and Restrictions on the day and year first written above.

EXECUTED THIS 12 DAY OF MAY, 2009.

DECLARANT:

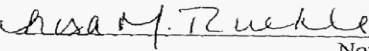
BLUE SKY, INC

BY   
DENNIS L. ROCHFORD, PRESIDENT

STATE OF IOWA                            )  
  ) ss.  
COUNTY OF POTTAWATTAMIE )

On this 12 day of May, 2009, before me the undersigned, a Notary Public in and for said State, personally appeared Dennis L. Rochford, known to me personally who signed this document as the voluntary act and deed of the corporation and his voluntary act and deed.



  
Notary Public

