

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

H&O Properties, LLP, hereafter referred to as “Declarant”, is the owner in fee simple of The Deer Tracks Subdivision, the plat of which is attached hereto, being a subdivision of certain real estate in Allamakee County, Iowa, which is more particularly described in Schedule “A” attached hereto and incorporated herein by reference.

Declarant hereby declares that all of the real estate described above shall be held, sold, and conveyed only subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of said real estate and which constitute covenants running with the land and binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner of any part of such real estate. The Declarant and any parties taking title to any Lot within the Subdivision have accepted and agreed that the terms of this Declaration and its objective that the Subdivision will become and remain an attractive rural community is in the best interest of all Owners. Any Owner or party taking an interest in a lot through an Owner understands and acknowledges that this is a rural property and that the sights, sounds and smells and pace of life may be different than if the Lots were located in an urban environment. Agricultural uses of Lots and surrounding lands may result from time to time in a different environment than would have been the case had the Subdivision and the Lots been located in an urban environment.

ARTICLE I DEFINITIONS

1. “Association” shall mean and refer to the Deer Tracks Homeowners Association, Inc., an Iowa nonprofit corporation, and its successors and assigns.
2. “Board of Directors” shall mean the board of directors of the Association.
3. “Bylaws” shall mean and refer to the Bylaws of the Association.
4. “Common Areas” shall mean and refer to all real estate owned in fee title by the Association and all easement rights of every description owned by the Association, including but not limited to the well lots, and roadway, water main and entrance area easements all as shown on the subdivision plat.
5. “Declarant” shall mean and refer to H&O Properties, LLP, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.
6. “Lot” shall mean and refer to all lots created by the subdivision plat except the Well Lots.

7. "Owner" shall mean and refer to the record owner of fee simple title to any Lot and the record owner of the equitable interest in any Lot by virtue of an installment purchase contract, whether one or more persons or entities, but excluding those having an interest merely as security for the performance of an obligation, unless the party having a security interest takes title by virtue of foreclosure or equivalent, or unless a third party takes title by virtue of a foreclosure or equivalent, in which case such parties shall then be considered an Owner. "Owner" shall have the same meaning as "Member".

8. "Subdivision" shall refer to The Deer Tracks Subdivision, the plat of which is attached hereto.

9. "Subdivision Plat" shall mean and refer to the plat of The Deer Tracks Subdivision to which this Declaration is attached.

10. "Well Lot" shall mean and refer to Lots 33, 34, 35, 36 and 37 of the Deer Tracks subdivision.

ARTICLE II PROPERTY RIGHTS

1. Every Owner shall have a right and easement of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, including the right to use all roadways and the right to receive potable water from a well located on one of the Well Lots, subject to the following provisions:

- a. The right of the Association to adopt reasonable rules and regulations regarding the conduct and usage of the Common Areas by any Owner or guest of an Owner.
- b. The right of the Association to suspend the voting rights and right to use any of the Common Areas by an Owner for any period during which the assessment against such Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- c. The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Members of each class of Members agreeing to such dedication or transfer has been recorded.

2. Any Owner may delegate, in accordance with the bylaws, such Owner's right of enjoyment of the Common Areas to the members of the Owner's family or tenants of the Owner who reside on the Owner's Lot.

3. The Declarant hereby covenants for itself, its successors or assigns, that it will convey title to the Common Areas to the Association, free and clear of all encumbrances and liens but subject to easements, covenants and conditions contained herein or recorded prior hereto. The Association shall accept such conveyance, and the Association and its Members shall thereafter be bound by the terms of this Declaration as the same relate to the property interests thus conveyed.

4. The Declarant shall have the right to grant easements for utility purposes over the Common Areas until such time as the Common Areas are conveyed to the Association. After said conveyance, the right to grant easements for utility purposes over the Common Areas shall be reserved to the Association.

ARTICLE III RIGHTS OF DEVELOPMENT

To the extent not completed by the date of recording of this Declaration, the Declarant shall complete the construction of improvements in the Common Areas as follows:

1. Roadways with rock surfaces suitable for providing year round access to all Lots shall be constructed on all road rights of way (lanes) as depicted on the Subdivision Plat. Roadway construction shall be completed in timely fashion so as to cause no delay in the development of any Lot sold by the Declarant.

2. A well shall be constructed on behalf of the Declarant on each Well Lot to a depth determined by a licensed well driller necessary to produce water having a quality acceptable under the standards of the State of Iowa and shall have the capacity to provide the ordinary residential water needs for each Lot served by such well. The construction of each well will include the drilling of the well, a submersible pump, an underground pressure tank, and a separate electric meter. The wells on the following Well Lots shall serve the following Lots:

Well Lot 33: Lots 19, 20 and 28-32

Well Lot 34: Lots 21-27

Well Lot 35: Lots 8-14

Well Lot 36: Lots 1-7

Well Lot 37: Lots 15-18

Appropriate electric utility connections shall be provided to each of the wells. A separate utility meter will be provided for each Well Lot and the utility expenses relating to well operation will be paid as an Association assessment expense as provided in Article V(1)(c). All wells shall be completed in timely fashion so as not to delay the development of any Lots sold by the Declarant.

3. Water mains (any water line serving more than one Lot) shall be constructed from each well extending water service to all Lots. Laterals shall be constructed from the water mains to the lot line of each Lot and shut off valves installed at the lot line. All water mains and laterals shall be of such diameter, constructed of such material, and placed at such depth as determined by a competent plumber to be necessary to provide adequate water for residential needs to each Lot. All water mains and laterals shall be placed within the road rights of way or water line easements as depicted on the Subdivision Plat, and the Association shall have and retain the perpetual right and easement to place and maintain water mains and laterals in all such Common Areas. All water mains and laterals shall be constructed either prior to the sale of a Lot or in a timely fashion so as not to delay the development of any Lot sold by the Declarant, and shall comply with all applicable laws, codes and ordinances. However, the Declarant reserves the right to sell any Lot pursuant to a sale agreement which relieves the Declarant of the obligation to construct a lateral and shut off valve serving such Lot, provided that the sale agreement shall require the Lot purchaser to be responsible for constructing the individual lateral and shut off valve.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

1. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned.

When more than one person holds an interest in any Lot, all such persons shall be Members. However, the vote for such Lot shall be exercised as they among themselves determine. When more than one person is an Owner with respect to a single Lot, the first individual name listed on the real estate tax records shall be deemed the party designated to cast all votes with respect to such Lot, unless the Association is informed otherwise in a writing signed by all Owners of such Lot. In no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to two (2) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

a. When the total votes outstanding in Class A membership equal or exceed the total votes outstanding in Class B membership; or

b. December 31, 2009.

3. Each Member shall have the right to examine the books and records of the Association at a reasonable time and at a reasonable place, provided written request of not less than seven (7) days shall be provided to the Secretary or member of the Board of Directors of the Association.

ARTICLE V
MAINTENANCE OF COMMON AREAS

1. Maintenance of the Common Areas shall consist of the following:
 - a. Maintaining all wells, pumps and pressure tanks in good operating condition and producing sufficient quantities of potable water for ordinary residential use on all of the Lots.
 - b. Maintaining all of the water mains, laterals and shut off valves up to the boundary of each Lot in good condition.
 - c. Payment of all electric utility charges for the operation of all pumps.
 - d. Maintaining the surface of the entrance drive from Iowa Highway 76 and all roadways within the road rights of way (lanes) in good condition so as to provide reasonable year round access to all Lots. Included in this maintenance duty shall be the obligation to keep the road ways free of all obstructions, place new surfacing material as reasonably necessary, maintain all embankments and culverts under the roadways and use reasonable efforts to keep the traveled portions of the roadways free from accumulations of ice and snow.
 - e. Maintain in good condition the sixty (60) foot wide easement area at the entrance to the Subdivision, including the light pole, flag pole flag and light, Subdivision identification sign, statue and landscaping.
 - f. Mow, as necessary, grass and weeds on the road rights of way, Well Lots and entrance easement provided, however, that the duty to mow the road rights of way shall be limited to the traveled portion of the road ways and four (4) feet on either side of the traveled portions.
2. Declarant covenants, for itself, its successors or assigns, that it will, at its sole expense, maintain all of the Common Areas until September 1, 2006.
3. Beginning on September 1, 2006, the Association shall provide, at its sole expense, all maintenance for the Common Areas.

4. The duty of the Association to maintain the Common Areas shall not include any duty to maintain private driveways, including any portions of private driveways located within the road rights of way which shall be the sole responsibility of the Owner of the Lot served by the private driveway.

ARTICLE VI COVENANTS FOR ASSESSMENTS

1. The Declarant, for each Lot within the Subdivision, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees incurred to collect such assessments, shall be a charge on the land and shall be a continuing lien on each Lot against which such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successor in title unless expressly assumed by such successor.

2. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Lots and for the improvement and maintenance of the Common Areas.

3. All annual and special assessments for all Lots shall be identical, regardless of whether a Lot is developed or undeveloped and regardless of whether the Owner of the Lot is a Class A Member or a Class B Member.

4. Maximum annual assessments shall be as follows:

a. There shall be no annual assessment for any Lot for calendar year 2005.

b. The maximum annual assessment for each Lot for calendar year 2006 shall be \$300.

c. Beginning with calendar year 2007, the maximum annual assessment for each Lot may be increased by the Board of Directors of the Association without a vote of the membership by an amount equal to ten percent (10%) of the annual assessment for the preceding year plus the amount by which any real estate taxes and insurance premiums payable by the Association have increased over amounts payable for the same items for the previous year.

- d. Beginning with calendar year 2007, the maximum annual assessment may be increased by more than ten percent (10%) of the preceding year's assessment by a vote of two-thirds (2/3) of the Members of each class of Members, in person or by proxy, at a meeting duly called for this purpose.

5. The Association may levy, subject to the provisions hereinafter stated, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Areas provided that any such assessment, including the due date of payments on account of such assessment, shall be approved by the vote of two-thirds (2/3) of the Members of each class of Members voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, that in the event any well fails the Board of Directors of the Association shall have authority to levy a special assessment without a vote of the Members in such amount, and with such due date, as shall be reasonably necessary to restore water service to the affected Lots in the shortest possible time. Subject to the same 2/3 membership voting requirement, the Association may establish a capital reserve fund and levy special assessments for the purpose of accumulating money for future capital improvements in such fund.

6. Written notice of any meeting called for the purpose of taking any action authorized under paragraphs 4 and 5 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all of the votes of each class of Members 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 the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. The Bylaws of the Association shall not prohibit the granting of proxies.

7. The Board of Directors shall fix the amount of the annual assessment for each Lot by September 1 of each year, commencing with September 1, 2006. The due date for payment of annual assessments shall be September 15 of each year, beginning with 2006, unless the Board of Directors otherwise determines. In the event the Board of Directors fails to fix the annual assessment for any year, the annual assessment for such year shall be the same as that of the previous year. The due date for the payment of special assessments shall be determined by the Board of Directors and may be payable in installments.

8. Written notice of all annual and special assessments shall be sent by the Association to every Owner.

9. The Association shall, upon the request of any Owner or mortgagee, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. The Association may establish a reasonable charge for furnishing such certificates.

10. Any assessment or assessment installment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per year. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien of the assessment against the Lot. In the event any legal action is undertaken to collect a delinquent assessment, the Owner shall be responsible to pay to the Association all reasonable attorney's fees incurred in any collection action and the costs of such action. No Owner may avoid liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of the Owner's Lot.

11. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or a proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII USE AND DEVELOPMENT RESTRICTIONS

1. No Lot may be divided or subdivided by conveyance or other means, it being intended that each Lot shall remain whole and that no part of any Lot shall be conveyed except by conveyance of the entire Lot.

2. Except as specifically provided herein, no Lot or portion of a Lot may be developed or used for a purpose other than a single family residence and uses accessory thereto.

3. Notwithstanding any restriction on residential use, the Declarant may use the existing building on Lot 1 for Lot marketing and equipment storage purposes until all of the Lots have been sold. The Declarant may, however, relinquish the right to use the building to the purchaser of Lot 1 who may then use the building for any lawful purpose including, at the option of the Owner, leasing the building to the Association for meeting and equipment storage purposes.

4. All residential structures shall be constructed of wooden logs or shall be sided with wooden logs unless, upon the application of an Owner, the Board of Directors determines that another material would be consistent with the appearance and character of the Subdivision and gives written permission to the Owner for the use of such alternate material.

5. The maximum floor area of any residential structure, exclusive of garages, open porches, decks and patios, shall be 5,000 square feet.

6. No accessory buildings shall be constructed with dimensions in excess of 30 feet x 40 feet, nor shall any accessory buildings constructed elsewhere be placed on any Lot, without the written approval of the Board of Directors. When considering the approval of any such

larger or prefabricated accessory building, the Board of Directors shall take into account the proposed location of the accessory building as well as the compatibility of the proposed accessory building with the overall character of the Subdivision and improvements thereto. The construction or placement of any such larger or prefabricated accessory building shall be completed within one hundred twenty (120) days after the issuance of a building permit by the county zoning officer. Landscaping, meaning restoration of the surrounding area, and installation of any driveways to service any such accessory building, shall be completed within three (3) months of commencement of construction unless weather conditions justify a reasonable delay. Notwithstanding the foregoing, any prefabricated accessory building constructed by the Amish shall not require approval by the Board of Directors.

7. No mobile homes (as defined in Section 435.1 of the 2005 Code of Iowa), whether or not converted to real estate, shall be placed on any Lot.

8. No manufactured homes (as defined in Section 435.1 of the 2005 Code of Iowa) shall be placed on any Lot except for new manufactured homes constructed of wooden logs.

9. No commercial or industrial activity shall be conducted on any Lot except as provided in this paragraph and in paragraph 3, above. Home occupations and offices shall be permitted subject to the following restrictions:

- a. Such activities shall be carried on entirely within residential dwellings or accessory buildings and no external storage or other indications of commercial or industrial activity, other than identifying signs, shall be permitted.
- b. The activity shall not produce any noise, odor, dust or other emissions discernible from any adjoining Lot.
- c. The activity shall not employ on a Lot any person who is not a member of the family occupying the dwelling on the Lot.
- d. The activity shall not include the repair or servicing of any vehicles or other motorized equipment, with the exception of the Owner's motorized equipment.

10. Recreational vehicles shall not be placed or stored on a Lot except in compliance with the following restrictions:

- a. A permanent residential structure in compliance with the requirements of these restrictive covenants must have previously been constructed and be currently occupied on the same Lot.
- b. No rental charges may be collected for the use or storage of a recreational vehicle on any Lot.

- c. A recreational vehicle on any Lot shall not be occupied for a total of more than twenty-eight (28) days in any calendar year and shall not be occupied for more than seven (7) consecutive days interrupted by periods of non-use not to be less than two (2) weeks.

For purposes of this paragraph, "recreational vehicle" means and includes RV's, travel trailers and campers of all descriptions, with or without motive power.

11. No commercial vehicles may be stored on any Lot when not in use. For purposes of this paragraph, "commercial vehicles" means vehicles larger than standard size automobiles and pickup trucks which are used primarily for any commercial purpose.

12. Snowmobiles and all terrain vehicles may be operated only on the road rights of way and within the Lot owned or occupied by the owner of the vehicle or such person's family member. Any and all recreational vehicles must be operated with courtesy and safety in mind. They must yield the right-of-way to all conventional motor vehicles while traveling on any part of the roadway and, to the extent necessary, come to a complete stop before entering the roadway or continuing travel as safety dictates. When operated within the Subdivision or elsewhere, applicable laws of governing authorities shall also apply. The registered owner and the operator of any such snowmobiles or all-terrain vehicles shall be jointly and severally liable for any damage which may be done to property of the Association or others by virtue of such operation. The maximum speed limit for snowmobiles and all-terrain vehicles shall be fifteen (15) miles per hour when operated on the road rights-of-way.

13. Except for Lot boundaries along the exterior of the Subdivision, no fences shall be constructed within any Lot or on the boundary of any Lot except those constructed of split wood rail or vinyl materials. No wire fences, including but not limited to barbed wire fences, shall be permitted except on Lot lines along the external boundary of the Subdivision.

14. Except as provided in paragraphs 15 and 16, below, no animals, livestock, poultry or bees shall be raised, bred or kept on any Lot.

15. Dogs, cats or other household pets, not exceeding four (4) pets per household over six (6) months of age, may be kept on a Lot so long as they are not bred and/or otherwise maintained for any commercial purposes and provided that no Owner shall keep a dog or other animal that creates a nuisance to other Owners, or any animal which has a vicious propensity. Owners are responsible for proper handling and disposing of waste, maintaining animal health, and pest extermination and other matters that arise out of the maintenance of domestic animals. All such pets must be restrained or confined and kept off the premises of other Lot Owners unless on a leash or otherwise under the immediate control of the pet owner.

16. No horses shall be kept on the following Lots: 1, 3-8, 10-13, 23, 24 and 28-30. On all other Lots, horses may be kept by the Lot Owner or occupant provided that the maximum number of horses on a Lot shall be one horse for every two acres of Lot size, and when not being ridden, shall be kept in a securely fenced area on the Lot. No manure pile shall be maintained less than 150 feet from a Lot line.

17. No trash or garbage shall be burned on any Lot. Wood and landscape waste may be burned but any open burning must take place within a stone or steel fire ring not greater than three feet in diameter. No unattended fires shall be permitted. All fires must be tended and have an accessible water supply by hose hooked to an outlet.

18. No hunting with bows or fire arms shall be permitted within the Subdivision nor shall any fire arms be discharged. No trapping shall be allowed within the Subdivision with the exception of rodents.

19. No junk vehicles, vehicle parts, construction materials, garbage, junk, rubbish, recyclables or hazardous materials shall be placed or stored on any Lot; provided, however, that this restriction shall not prohibit the temporary storage of construction materials while construction activity is underway nor the temporary storage of garbage or rubbish produced on a Lot for a period not in excess of fourteen (14) days.

20. No automobile, truck, or motorized vehicle of any nature shall exceed the speed limit of fifteen (15) miles per hour when traveling on the roadways located within the Common Areas.

21. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity that the lighting will not disturb the Owners of adjacent Lots. Light posts for any exterior yard lighting shall be of a design which is harmonious with the style and architecture of the building on the Lot and consistent with the character of the Subdivision.

22. No wind powered electric generators, exterior television or radio receiving or transmission antenna, or satellite receiving dishes or equipment shall be placed or maintained on any portion of a Lot without the prior written consent of the Board of Directors of the Association. Any satellite dishes shall not exceed thirty-six (36) inches in diameter. Any such satellite dishes, subject to approval, shall be permitted either on the rear setback behind the residence or in an unobtrusive location.

23. No firewood or wood piles shall be kept outside of an enclosed structure unless it is neatly stacked and screened from view from the public roadways. Any such firewood or wood pile shall not exceed four (4) feet high by four (4) feet wide by sixteen (16) feet long (2 cords).

24. No garbage, refuse, rubbish or cuttings shall be deposited on any Common Areas. Any such materials shall be placed within the confines of a Lot outside of any road right of way in a suitable sanitary container. This shall not, however, prohibit construction and operation of a compost area.

25. Propane tanks are permitted. No gasoline or diesel fuel containers shall exceed ten (10) gallons and shall be of a type which complies with all applicable laws.

26. Each Owner shall be responsible for maintaining the Owner's Lot and all buildings or improvements thereon in a neat appearance. This shall apply from the date of purchase of the Lot. This obligation will include, but not be limited to, the following: The Owner will keep the Owner's Lot and its building or other improvements in good order and repair and free of debris. This will include the obligation to paint or stain or otherwise care for the exterior of all buildings and other improvements in a manner and in such frequency as is consistent with good property management.

27. The Lots shall be further subject to all applicable land use restrictions of governing authorities, including Allamakee County and the State of Iowa. In the case of any conflict between this Declaration and the laws of such governing authorities, the most stringent requirement or restriction shall prevail.

28. Each Lot will be served by a private sanitary sewer system, whether installed by the Declarant or by the Lot Owner, which shall be installed and thereafter maintained in a proper manner and in accord with all applicable laws, codes and ordinances. Each Owner is solely responsible for the cost of that Lot Owner's sanitary sewer system.

29. The Board of Directors shall have the right, in its sole discretion, to grant one or more Owners a variance from any covenants and restrictions contained in this Declaration relating to Lot use and development, provided that such variance must also be approved by the vote of more than fifty percent (50%) of the Members of each class of Members voting, in person or by proxy, at any annual meeting or a special meeting duly called for that purpose. The Association and its Board of Directors shall not be liable, under any circumstances, for any loss or damage claimed by any person by reason of the approval or denial of any request for a variance.

ARTICLE VIII MORTGAGES

1. An Owner who mortgages his or her Lot shall, in writing, notify the Board of Directors of the Association of the name and address of the mortgagee, and in the event that the mortgage is transferred to another holder said Lot Owner shall notify, in writing, the Board of Directors of the name and address of the new holder of the mortgage. This information shall be maintained by the Board of Directors in a book entitled "Mortgages of Lots".

2. Whenever any assessment levied against any Lot, or any installment thereof, becomes delinquent for a period in excess of thirty (30) days the Association may promptly notify, in writing, the holder of the first mortgage on the Lot. Written notice to the first mortgagee on a Lot shall also be given with respect to any other default by the Lot Owner under any other provision of this Declaration which remains uncured for a period of thirty (30) days following the date of such default.

3. No suit or other proceeding may be brought to foreclose the lien for any assessment levied against any Lot until ten (10) days after written notice of such intended proceeding shall have been given to the holder of the first mortgage on the Lot.

4. Any mortgage holder with respect to any Lot shall have the right to pay any assessment or installment thereof which becomes delinquent.

5. Each first mortgagee of any Lot shall have the right to examine the books and records of the Association at a reasonable time on seven (7) days written notice.

6. Any first mortgagee or any other person or entity who acquires ownership of a Lot pursuant to mortgage foreclosure or a proceeding in lieu thereof, including contract forfeiture, shall take title to the Lot free of any liens or claims for unpaid assessments which accrue prior to the change of ownership.

7. Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the Members, the Board of Directors or the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of seventy-five percent (75%) of the holders of the first mortgages of the Lots:

- a. Abandon, encumber, sell or transfer any of the Common Areas; provided, however, that the granting of right of way easements for public utilities shall not be considered a transfer within the meaning of this subparagraph and further provided that a transfer or conveyance of the Common Areas by the Association to any public agency shall also be exempt from the provisions of this subparagraph.
- b. Abandon or terminate this Declaration.
- c. Amend any substantive provision of this Declaration or the Articles of Incorporation of the Association.

ARTICLE IX
GENERAL PROVISIONS

1. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by or pursuant to the provisions of this Declaration. In the event of a successful court action to enforce the provisions of this Declaration the prevailing party shall have the right to recover reasonable attorney fees incurred from any Owner found to be in violation hereof. Failure by the Association or by 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.

2. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

3. This Declaration may be amended by duly recording an instrument executed and acknowledged by the Owners of not less than seventy-five percent (75%) of the Lots. Provided, however, no amendment, unless executed and acknowledged by one hundred percent (100%) of the Owners, shall have the effect of:

- a. Materially affecting an Owner's rights of egress and ingress through the roadways in the Common Areas.
- b. Alter the right of an Owner to receive water from the designated well.
- c. Change the vote in the affairs of the Association or change the way in which the special assessments are levied.

4. All restrictions, conditions and covenants of this Declaration, unless otherwise specifically provided, shall be restrictions, conditions and covenants which run with the land and shall be enforceable by the Association and any Owner for a period of twenty-one (21) years from the date of recording of this Declaration. Such restrictions, conditions and covenants may be extended beyond the initial twenty-one (21) year period if the Association or any Owner files a verified claim with the Allamakee County Recorder before the expiration of the initial twenty-one (21) year term, as provided by Iowa Code Section 614.24 or any similar provision of law which may be in effect in the future.

5. The Association shall be solely responsible to maintain in good condition the white three rail vinyl fence located along part of the boundaries of Lot 1 and Lot 2 of the Subdivision, and the Association shall have a right of access across said lots for purposes of fence maintenance. The Association shall assume and perform all of the duties of Declarant with respect to said fence as provided in the Fencing Agreement between the Declarant and A. Ruth Larson recorded on September 2, 2005, as Instrument #2005-2261, in the office of the

Allamakee County Recorder. All costs of fence maintenance under this paragraph shall be included in the annual assessment levied on all Lots by the Association. The Association shall have no other fencing responsibilities in or along the Subdivision.

6. Notwithstanding any other provision of this Declaration, a Lot Owner shall have the right to rent the Owner's Lot and any improvements thereon to any person or entity provided that:

- a. Such rental is for a term of not less than seven (7) days; and
- b. Any tenant and such tenant's guests or invitees shall be subject to all of the provisions of this Declaration and the Owner shall have responsibility to ensure such compliance.

IN WITNESS WHEREOF, the undersigned, being the duly authorized representative of the Declarant, has executed this instrument on the _____ day of September, 2005.

H&O PROPERTIES, LLP

By: _____
James P. O'Connor, Partner

STATE OF IOWA)
) ss:
ALLAMAKEE COUNTY)

On this _____ day of September, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared James P. O'Connor, who acknowledged himself to be a Partner in H&O Properties, LLP, an Iowa limited liability partnership, and that he, as such partner, being authorized to do so, executed the foregoing instrument as the voluntary act and deed of said partner and said partnership.

Notary Public in and for the State of Iowa