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Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2013-00052764

BK 14564 PG 521-531

RETURN TO:

Prepared by & Return to: Lawrence I. James, Jr., Hogan Law Office, 3101 Ingersoll Ave., Suite 103, Des Moines, IA 50312 (515) 279-9059

**DECLARATION OF RESIDENTIAL COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION is made this 14 day of August, 2012 by **KIDMAN FARM DEVELOPMENT, LLC**, an Iowa limited liability company (the "Declarant").

WHEREAS, Declarant is the owner of certain real property legally described as follows:

Lots 1 - 29 in The Grove Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa; and

WHEREAS, Declarant is desirous of protecting the value and desirability of the Plat.

NOW, THEREFORE, Declarant hereby declares that all property within the Plat shall be held, sold and conveyed and be subject to the following restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of the Plat and shall run with the land and shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

DEFINITIONS.

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. "Plat" shall mean and refer to the real property described as Lots 1 - 29 in The Grove Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.
- B. "Declarant" shall mean and refer to Kidman Farm Development, LLC, its successors or assigns.
- C. "Lot" shall mean and refer to an individual parcel of land within the Plat upon which a dwelling may be constructed.
- D. "Building Lot" shall mean and refer to one or more Lots, or one or more Lots and the portion or portions of adjacent platted Lots in the Plat, used for the construction of one dwelling as herein permitted.

- E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the legal or equitable title to any Lot or Building Lot that is a part of the Plat.
- F. "Outbuilding" shall mean an enclosed, covered structure (other than a dwelling or the attached garage), such as a tool shed or garden house.
- G. "City" shall mean the city of Ankeny, Iowa.
- I. **DESIGNATION OF USE.**

All Lots shall be known and described as residential lots and shall not be improved, used or occupied for other than private residential purposes. No full-time or part-time business activity may be conducted on any Lot or in any dwelling or structure constructed or maintained on any Lot except those activities permitted under the terms of the zoning ordinance of the City.

II. **BUILDING TYPES.**

- A. No building or structure shall be constructed, altered, or maintained on any Building Lot other than a detached single family dwelling with an attached private garage.
- B. No building or structure of any kind shall be moved onto any Lot.
- C. The construction of any building or structure on any Building Lot shall be performed utilizing then acceptable construction methods and procedures, including (but not limited to) on-site "stick-built" construction and/or off-site modular or panelized construction.

III. **BUILDING AREA DESIGN AND CONSTRUCTION.**

No dwelling shall be constructed or permitted to remain upon any Lot unless the design and location is in reasonable harmony with existing structures and unless it meets the following requirements:

- A. One and one-half story, two story, split-level, and split foyer dwellings must have a finished area of not less than 1,630 square feet.
- B. One story or ranch dwellings must have a finished area of not less than 1,330 square feet.
- C. In computing total finished area, the same shall not include any finished area that has its floor below the exterior grade.
- D. In the computation of floor area, the same shall not include any porches, breezeways, or attached or built-in garages.
- E. All exterior painted portions of any dwelling, garage or Outbuilding located on any Lot shall be finished with one of the colors designated in writing by Declarant as being acceptable exterior color. All exterior painted portions of dwellings that are repainted shall be repainted in one of such colors.
- F. All roof material shall be CertainTeed brand in earth tone colors or shingle of equal color, quality and appearance thereto.

- G. All buildings, structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.
- H. If a minimum basement elevation requirement is shown on the recorded final plat for any Lot, the dwelling upon such Lot shall have a finished basement floor elevation as shown on the recorded final plat.
- I. Declarant shall have the option to require Declarant's soil engineer to approve and monitor all soil excavation during exaction of basements for dwellings constructed upon any Lot.

IV. ARCHITECTURAL REVIEW.

No building or structure, nor any addition or alteration thereof, shall be constructed or substantially altered on any Building Lot unless and until a design plan and a site plan (collectively the "Plans") have been submitted to and approved by Declarant. The Plans shall contain details of design, color scheme, elevation, site grade, landscaping, light poles, fencing, roofing, sidewalks, driveways, pet enclosures and other similar matters. The Plans shall also state the type of construction, including external details and materials. Declarant shall, within thirty (30) days from the date of submittal of the Plans, deliver to the Owner written approval of, rejection of, or required changes to the Plans. The intent of this provision is to insure that buildings and structures are developed in reasonable harmony within the Plat and that the covenants, restrictions and conditions contained herein are met in connection with such development. Declarant may terminate the requirements of this provision at any time, in its sole and absolute discretion, by recording notice of such termination.

V. GARAGES AND DRIVEWAYS.

All dwellings shall have a minimum of a two-car attached garage. All dwellings shall have a portland cement concrete driveway not less than 16 feet in width and running from the city street to the garage.

VI. TEMPORARY AND OTHER STRUCTURES; CERTAIN USES.

No temporary building or structure shall be built or maintained on any Lot. No camper, motor home, watercraft, trailer, unfinished dwelling basement, tent, shack, garage, or Outbuilding shall be used at any time as a dwelling. No vehicle with a gross vehicle weight greater than 7,000 pounds, and no camper, motor home, watercraft, trailer, or mechanical equipment may be parked or maintained on any Lot (except inside a garage) or on the public street, other than on a temporary basis; provided that this restriction shall not apply to trucks, equipment or trailers used in connection with construction of or rebuilding of a dwelling on any Lot. Temporary shall mean no more than a total of thirty (30) days per year. At no time may any vehicle, trailer or camper be parked or maintained in the yard of any Lot. At no time shall a vehicle or any mobile equipment be disassembled, repaired or serviced on any Lot, except inside a garage or dwelling.

VII. FENCES.

No fences or other structures may be built or maintained within the front building setback areas as shown on the Plat as recorded and no fences shall be built or maintained in front of the front line of the residential dwelling extended to the side Lot lines. The fence fabric or fence screening material shall be mounted on the exterior face of the fence posts or fence framing. No chain link fence, including chain link fence around a dog run, shall be permitted unless it is a black vinyl clad fence. All fences shall be kept in good repair and attractive appearance.

VIII. DECKS

Decks attached to a dwelling must be constructed from cedar, redwood, treated lumber or other products approved by Declarant. All decks shall be kept in good repair and attractive appearance.

IX. TREES AND SOD.

The Owner of each Lot is required to plant one tree on such Lot, within ninety (90) days of occupancy, from any of the following species of trees: Red Maple (*Acer rubium*), Norway Maple (*Acer platanoides*), Marshall's Seedless Ash (*Fraxinus* p. 'Marshall's Seedless'), Northern Red Oak (*Quercus borealis*), Burr Oak (*Quercus macrocarpa*), Little Leaf Linden (*Tilia cordata*), or any other species approved by Declarant in writing (collectively "Front Yard Trees"), in the front yard of the Lot, outside the public right-of-way, but within the street tree easement, if any, upon such Lot. If there is not a street tree easement, the Front Yard Tree should be planted as near to the right-of-way as possible and not within an easement area without the consent of the easement holder. Front Yard Trees shall be a minimum of 2" caliper in diameter, 10'-12' in height, and have a minimum spread of 4'.

Within sixty (60) days of completion of a dwelling upon a Lot, the front yard, side yards and twenty-five feet (25') of the rear yard measured from the rear of the dwelling foundation shall be fully sodded (except where the topography, conservancy districts, creek slopes or tree cover does not permit such sodding) and the remainder of the rear yard to the rear lot line shall be seeded or sodded. If weather conditions make this requirement impossible to meet, Declarant shall establish a reasonable period of time for compliance.

X. EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat as recorded. The Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such Owner and/or occupant, maintain, keep, and preserve that portion of the easement within the Lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within the easement areas (except customary ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services and drainage facilities within such easements areas. Any berm and/or swale constructed for drainage purposes shall be preserved and maintained to accomplish the purposes for which it was constructed.

XI. NUISANCES.

No noxious or offensive activity or odors shall be permitted on or to escape from any Lot, nor shall anything be done thereon which is or may become an annoyance or a nuisance, either temporarily or permanently.

XII. EROSION CONTROL AND STORM WATER DISCHARGE PERMITTING REQUIREMENTS.

The Owner of each Lot, whether vacant or improved, their agents, assigns, heirs and/or building contractors shall take all necessary precautions to prevent, stabilize and/or control erosion on their Lot and the Plat, to prevent sediment migration and soil erosion from extending beyond the boundaries of their Lot and the Plat, and, in the event it occurs, to promptly clean up all eroded sediment and to restore all affected areas to their original condition.

Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. The Owner shall be solely responsible for the Lot with respect to compliance with

all terms, provisions and requirements of any NPDES Storm Water Discharge Permit No. 2 and any storm water pollution prevention plan which includes the Lot.

During the ownership of the Lot, Owner shall protect, defend, indemnify and hold the Declarant and other Owners harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to (i) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the Lot and/or (ii) any alleged violation of any NPDES or storm water discharge rule or regulation.

XIII. SIGNS.

No sign of any kind shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except (i) street markers, traffic signs, or any signs installed by the City by other governmental entities or by the Declarant, (ii) signs which have been approved by Declarant in writing not exceeding 144 square inches in area on which there shall only be exhibited the street number and/or the name of the resident, (iii) a customary sign (one per Building Lot) advertising a Building Lot or dwelling for sale, not exceeding 1,296 square inches, and (iv) signs which have been approved by Declarant in writing advertising the builder or for promotional or marketing purposes. In the event that any signs other than those described above shall be placed or exposed to view on any Lot, the agents of the Declarant are hereby given the right to enter upon such Lot and remove such signs.

Declarant reserves the right to install entrance and directional signs with respect to the Plat, at locations and of design determined by the Declarant in a manner consistent with the ordinances of the City.

XIV. TRASH RECEPTACLES.

No trash receptacles or garbage cans shall be permitted to be placed on a Lot outside a dwelling, garage or Outbuilding unless hidden by an attractive screen of suitable height, or unless sunken to ground level in a hole lined with permanent cribbing. However, unscreened trash in proper containers and/or bags shall be allowed to be placed on a Lot outside a dwelling, garage or Outbuilding no earlier than twelve (12) hours prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the screened area or underground location, or inside a dwelling, garage or Outbuilding, within twelve (12) hours following the scheduled pick up of such trash.

XV. UTILITIES.

All utility connection facilities and services shall be underground.

XVI. TOWERS AND ANTENNAS.

No exterior transmission tower, antenna or television transmission dish of any kind shall be constructed, installed, modified, or permitted on the ground, on dwellings, on garages or on Outbuildings. Notwithstanding the foregoing, an exterior tower, antenna or receiver dish which is twenty-four (24) inches or less in diameter shall be permitted. No more than one (1) such exterior tower, antenna or receiver dish shall be permitted on each Lot. No more than one (1) penetration in the dwelling shall be permitted for the cable from such exterior tower, antenna or receiver dish. Said exterior tower, antenna or receiver dish shall be mounted on the rear elevation or the rear half of the side elevation only. In no event shall a satellite dish or parabolic device be mounted on the front elevation or the front half of a side elevation. No other exterior towers or antenna shall be constructed, installed, modified or permitted on the ground, on dwellings, on garages or on Outbuildings.

XVII. MAINTENANCE.

The Owner and/or occupant of each Lot shall jointly and severally be responsible to keep the same free of trash, weeds and debris and to keep the lawn and landscaping well maintained and healthy, including (but not limited to) maintaining the lawn at a height not to exceed six (6) inches. The Owner and/or occupant of each Lot shall jointly and severally be responsible to maintain the exterior of any dwelling, the driveway, fence, screening and all other improvements.

XVIII. CERTAIN ANIMALS PROHIBITED.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of three (3) dogs and/or cats be kept at any one Building Lot at any one time. Dogs must be either kept in the dwelling or in a shelter aesthetically compatible with the dwelling and surrounding areas, and dog runs, if any, must be completely screened or otherwise hidden from view from any other Lot and all streets within the Plat. All pets must be leashed and under the control of its owner if not tied up or kept within a fenced yard.

XIX. ACCESSORY STRUCTURES.

Each Building Lot may have no more than one (1) customary and traditional accessory structure such as a tool shed, garden house, in-ground swimming pool, tennis court and the like. Any trash receptacle, or tool shed, garden house or other Outbuilding of like nature, shall be properly screened by a privacy fence and/or shrubbery. No above-ground or non-permanent swimming pools shall be permitted on any Lot. Swimming pools, tennis courts, Outbuildings and other accessory structures and improvements, including dog kennels and runs, shall not extend farther than the front line of the residential dwelling extended to the side lot lines and shall not be located within 20 feet of any side or rear Lot line, as the minimum distance established by the zoning ordinance of the City or the minimum distance as established in the Plat as recorded, whichever is the more restrictive.

XX. SURFACE WATER.

The topography of the Plat is such that surface water may flow from certain Building Lots onto other Building Lots. In regard to all matters concerning surface water, each Building Lot shall be subject to and benefited by such easements as may exist from the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time; and all Owners shall have such rights and obligations with respect thereto as may be provided by such laws.

XXI. MAILBOXES.

Neighborhood mailbox cluster units shall be installed by the Declarant according to United States Postal Service regulations. The Owner and/or occupant of the Lot(s) on which a mailbox cluster unit is located shall be responsible for removal of snow and ice which would obstruct access to the mailbox cluster units by the mail carrier and other Owners.

XXII. HOMEOWNERS ASSOCIATION.

A. DEFINITIONS.

In addition to the definitions set forth above, the following terms shall have the following definitions, except as otherwise specifically provided:

1. "Association" shall mean and refer to The Grove Homeowners Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa, 2011.
2. "Association Responsibility Elements" shall mean the following:
 - (i) All signs, monuments, and similar entrance features and the landscape plantings and materials surrounding the entrance sign utilized by the Plat and any plats added to the Association in the future;
 - (ii) All Common Areas located within the Plat and any plats added to the Association in the future;
 - (iii) All ponds and water detention basins located within the Plat and any plats added to the Association in the future; and
3. "Board of Directors" shall mean and refer to the Board of Directors of the Association.
4. "Common Area" shall mean and refer to any real property within the Plat and any plats added to the Association in the future to which the Association holds title, together with any improvements thereon, for the common use, enjoyment and benefit of the Owners.
4. "Member" shall mean and refer to those persons entitled to membership in the Association as provided in the Declaration.

B. MEMBERSHIP AND VOTING.

1. **Membership.** 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 that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership.

2. **Voting.** Subject to provisions hereof, the Owners of a Lot 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. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

3. **Declarant as Sole Voting Member.** 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, Declarant shall have the right to elect all Directors and to cast all votes as it deems appropriate. Each Owner by acceptance of a deed to a Lot shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

4. **Board of Directors.** The Members entitled to vote shall elect a Board of Directors of the Association as prescribed by the Bylaws of the Association. The Board of Directors shall manage the affairs of the Association.

5. **Suspension of Voting Rights.** The Association shall suspend the voting rights of a Member for any period during which any assessment hereunder against his/her/its Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

C. COVENANT FOR MAINTENANCE ASSESSMENTS.

1. **Creation of the Lien and Personal Obligation of Assessments.** Declarant hereby covenants for each Lot and the Owner of each Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) a prorated annual assessment and (2) special assessments to be established and collected as hereinafter provided. The annual assessment and special assessments, together with late fees, interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessments are made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall further be the joint and several personal obligation of each person who was the Owner of such property at the time when the assessment became due.

2. **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners within the Plat; for improvement, maintenance, repair, replacement, removal, and demolition of the Association Responsibility Elements; for payment of insurance; payment of real estate taxes and assessments associated with the Common Area; payment of fees, costs, debts or obligations of the Association; payment of fees to a professional management firm; payment of fees to an accounting firm and attorney in connection with the operation of the Association as well as the defense or prosecution of any legal action; and for other purposes specifically provided herein.

3. **Maximum Annual Assessment.** The Board of Directors shall establish the maximum annual assessment to be assessed against each Lot, which assessment shall include a pro rata portion of the amount of real estate taxes and special assessments payable by the Association. Rates for both annual assessments and special assessments must be fixed at a uniform rate for all Lots. The Board of Directors shall fix any increase in the amount of the annual assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of the increase in the annual assessment, special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto.

4. **Reserve Fund.** A portion of such annual assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair, replacement, removal and demolition of the Association Responsibility Elements and any capital improvement that the Association is required to maintain. Notwithstanding the foregoing, Declarant may use any reserve funds, if established, to defray operating costs as it deems appropriate.

5. **Special Assessments for Capital Improvements and Operating Deficits.** In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, removal or demolition of a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

6. **Date of Commencement of Annual Assessments: Due Dates.** The annual assessment provided for herein shall commence as to each respective Lot on the first day of the first month following the date of conveyance of a Lot by Declarant. Upon such conveyance, the annual assessment and special assessments prorated to December 31 must be paid to the Association. The Board of Directors shall establish the due dates for all assessments. All payments shall be made on or before the due date. Both annual assessments and special assessments shall be collected by the Association, in advance, in annual installments due on January 1.

7. **Declarant Exempt from Assessments.** Declarant shall not be liable for annual or special assessments upon Lots owned by it. Declarant is not responsible for the establishment of a budget as long as Declarant is the sole voting member of the Association. The Association and Declarant are not required to submit statements for assessments to any Owner.

8. **Effect of Nonpayment of Assessments: Remedies of the Association.** 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 property 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 non-use of the Common Area or abandonment of the Owner's Lot.

9. **Subordination of Assessments Liens.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The assessment shall be paid prior to or at the closing of sale or transfer of any Lot. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. The failure of an Owner to pay assessments as provided herein shall not constitute a default under a mortgage insured by the Federal Mortgage Agencies.

10. **Assessment Certificate.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

D. MAINTENANCE BY ASSOCIATION, COMMON AREA AND INSURANCE.

1. **Maintenance of Association Responsibility Elements.** The Association shall provide all maintenance, repair, replacement, restoration, removal and demolition of the Association Responsibility Elements, including (but not limited to) all necessary painting, repairs, replacements and care of signs, monuments and other entrance structures. In the case of lawns, shrubs, trees, and other elements of landscaping, the Association shall perform all routine maintenance, including (but not limited to) all necessary mowing, trimming, and replacement of landscaping, and use of pesticides to control infestation of weeds and insects. In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, or the Owner's family, guests, invitees, agents or contractors, the cost of such maintenance or repairs shall be assessed to such Owner.

2. **Maintenance of Common Area.** The Association shall be the owner of the Common Area and shall timely pay all real estate taxes and assessments levied against the Common Area. Declarant hereby covenants for itself, its successors and assigns that it shall convey to the Association the fee title to the Common Area free and clear of all mechanic's liens or any liens or encumbrances whatsoever, except covenants, easements, conditions and restrictions whether or not of record or created by this Declaration or granted to any public authority.

3. **Contracts and Agreements.** The Board of Directors, in its sole discretion, shall enter into any contract, agreement, lease, management contract, employment contract or lease of recreational equipment and facilities, engage the services of and discharge any manager, activities director, managing agent, independent contractor or other employee as it deems necessary. The Board of Directors, in its sole discretion, shall determine the duties and compensation of such persons so employed.

4. **Insurance.** The Association shall purchase and maintain a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall insure the Association and the Owners against claims relating to the Association Responsibility Elements. The Association shall pay the premiums for all such insurance hereinabove described and the cost thereof shall become a part of the annual assessment.

5. **Access for Maintenance.** The Association and its agents, employees or contractors shall have the right of reasonable access for ingress and egress over, across or through each Lot for the purpose of performing its maintenance, obligations of the Common Area and Association Responsibility Elements.

XXIII. ADDITION OF PROPERTY.

1. **Conveyance of Additional Common Area and Additional Responsibility Elements.** Declarant shall have the right at any time to convey additional Common Area to the Association or to add additional Association Responsibility Elements. Nothing in this Section, however, shall be deemed to be an obligation on the part of Declarant to convey additional Common Area to the Association in the future. The Association shall be obligated to accept any additional Common Area so conveyed by Declarant and to hold and maintain the additional Common Area pursuant to the terms of this Declaration.

2. **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 Recorder of Polk County, Iowa. No approval of the Association or any other person shall be necessary.

XXIV. ENFORCEMENT OF COVENANTS.

This Declaration shall be deemed to run with the land, and the Declarant, successor to the Declarant, or the Owner of any Lot may bring an action in any court of competent jurisdiction to enforce this Declaration to enjoin its violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity, and shall further be entitled to recover reasonable legal fees and costs if the Declarant or Owner prevails in any such action.

XXV. AMENDMENTS OF COVENANTS.

This Declaration may be amended from time to time with the approval of the Owners. Such approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners or other party. Such amendments or modifications by the Declarant shall be effective the date the amendment or modification has been filed with the Recorder.

XXVI. PERIOD OF COVENANTS.

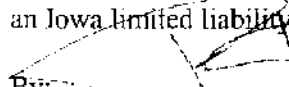
This Declaration shall continue and remain in full force and effect at all times as to the Plat and as to the Owners of any Lot, regardless of how title was acquired, until the date twenty-one (21) years after the recording of this Declaration, on which date this Declaration shall automatically be extended for two (2) successive periods of five (5) years each, unless on or before the end of the base period, or the first extension period, the Owners of not less than fifty percent (50%) of the Lots, by written instrument duly recorded, declare a termination of the same.

XXVII. ENFORCEMENT AND WAIVER.

- A. In the event that any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- B. The Plat shall also be subject to any and all rights and privileges of the City, now held or hereafter acquired, by dedication or conveyance, or by reason of the platting and recording of the Plat, or by this Declaration or by law. Wherever there is a conflict between this Declaration and the zoning ordinance of the City, the more restrictive shall be binding.
- C. This Declaration shall not be applicable to property dedicated to the City, and the City may allow appropriate public use on city-owned property within the Plat.
- D. This Declaration may be assigned by the Declarant to a successor in interest by written instrument executed by both parties and filed with the Recorder of Polk County, Iowa.

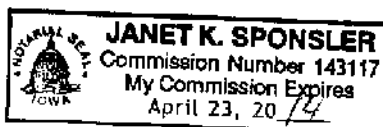
IN WITNESS WHEREOF, this Declaration of Residential Covenants, Conditions and Restrictions, was made the date first written above by the Declarant.

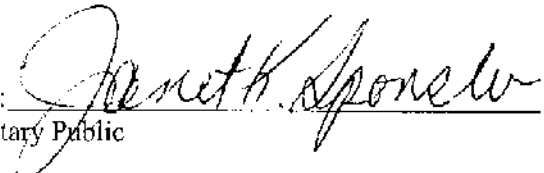
KIDMAN FARM DEVELOPMENT, LLC,
an Iowa limited liability company

By: 
Terry J. Lutz, Manager

STATE OF IOWA, COUNTY OF POLK:

This instrument was acknowledged before me on August 14, 2012, by Terry J. Lutz, Manager of Kidman Farm Development, LLC.



By: 
Notary Public

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Ch



Doc ID: 027959450002 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 10/18/2013 at 02:31:09 PM
Fee Amt: \$12.00 Page 1 of 2
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2014-00035226

BK 14998 PG 214-215

Prepared by & Return to: Timothy C. Hogan, Hogan Law Office, 3101 Ingersoll Ave, Suite 103, Des Moines, IA 50312 (515) 279-9059

**AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS,
AND RESTRICTIONS**

THIS AMENDMENT is made this 22nd day of August, 2013, by DILIGENT KIDMAN GROVE, LLC, an Iowa limited liability company ("Diligent"), which is the owner and developer of the real estate hereinafter described, and KIDMAN FARM DEVELOPMENT, LLC, an Iowa limited liability company ("Declarant"). This Amendment relates to the Declaration of Residential Covenants, Conditions and Restrictions dated August 14, 2012, and recorded December 7, 2012, in Book 14564 at Page 521 in the records of the Recorder of Polk County, Iowa, as amended from time to time (collectively the "Declaration").

WHEREAS, the Declaration grants to Declarant the irrevocable right to subject additional land to the terms and conditions of the Declaration at any time without approval or consent of the Association or any other person; and

WHEREAS, Diligent owns the following described real estate (the "Additional Property") which Additional Property is unimproved vacant lots located contiguous to the property subject to the Declaration:

Lots 1 – 29 in The Grove Plat 2, an Official Plat, in and forming a part of the City of Ankeny, Polk County, Iowa.

WHEREAS, Diligent and Declarant desire to add the Additional Property to the terms and conditions of the Declaration upon the filing of this Amendment.

NOW, THEREFORE, pursuant to the authority described in the Declaration, Declarant hereby adds the Additional Property to the Declaration, which Additional Property shall be subject to and governed by all of the terms and conditions of the Declaration and the Owners of the Lots within the Additional Property shall automatically become members of the Association in the same manner as described in the Declaration and are hereby subjected to the same terms, conditions, duties and assessments as described in the Declaration.

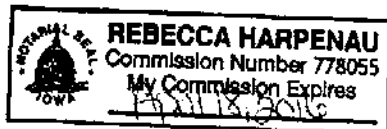
DILIGENT KIDMAN GROVE, LLC,
an Iowa limited liability company

By: SB DEVELOPMENT FUND, LLC,
an Iowa limited liability company,
its Managing Member

By: Steven Bruere
Steven R. Bruere, Managing Member

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me on August 22, 2013, by Steven R. Bruere, as Managing Member of SB Development Fund, LLC, the Managing Member of Diligent Kidman Grove, LLC.



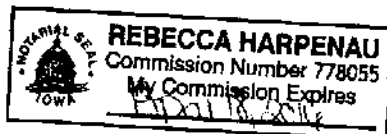
By: Rebecca Harpenau
Notary Public

KIDMAN FARM DEVELOPMENT, LLC,
an Iowa limited liability company

By: Terry J. Lutz
Terry J. Lutz, Manager

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me on August 22, 2013, by Terry J. Lutz as Manager of Kidman Farm Development, LLC.



By: Rebecca Harpenau
Notary Public

22
1039



Doc ID: 030787270004 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 05/24/2016 at 02:51:26 PM
Fee Amt: \$22.00 Page 1 of 4
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2015-00204009

BK 16015 Pg 237-240

RETURN TO:

Prepared by and Return to: Christopher J. Langpaul, Hubbard Law Firm, P.C., 10605 Justin Drive,
Urbandale, IA 50322; Phone: (515) 222-1700

**AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS AMENDMENT TO DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS (the "Amendment") is made this ____ day of May, 2016 (the "Effective Date"), by Grove Development, LLC, an Iowa limited liability company ("Owner") and TJL Investments, LLC, an Iowa limited liability company ("Declarant"). This Amendment relates to the Declaration of Residential Covenants, Conditions and Restrictions dated August 14, 2012 and recorded December 7, 2012 in Book 14564 Page 521 in the records of the Recorder of Polk County, Iowa, as amended (collectively, the "Declaration").

WHEREAS, pursuant to Article XXIII, Section 2 of the Declaration, the Declaration grants to Declarant the irrevocable right to subject additional land to the terms and conditions of the Declaration at any time without approval or consent of the Association or any other person; and

WHEREAS, the Owner owns the following real estate (the "Additional Property") which is legally described as set forth in the attached Exhibit "A" and which is in the process of platting and to be known as follows:

Lots 1 – 64 in The Grove Plat 3, an Official Plat. in and forming a part of the City of Ankeny, Polk County, Iowa

WHEREAS, the Declarant and Owners desire to add the Additional Property to the terms and conditions of the Declaration upon the filing of this Amendment; and

NOW, THEREFORE, pursuant to the authority described in the Declaration, Declarant hereby takes the following action set forth more fully below.

1. Addition of Property. Declarant hereby adds the Additional Property to the Declaration, which Additional Property shall be subject to and governed by all of the terms and

conditions of the Declaration and the current Owners of the Additional Property, and all future owners of Lots within the Additional Property, shall automatically become members of the Association in the same manner as described in the Declaration and are hereby subjected to the same terms, conditions, duties and assessments as described in the Declaration.

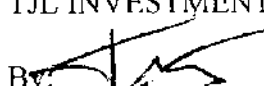
2. No Other Changes. Except as set forth in this Amendment, all other provision set forth in the Declaration remain unchanged and in full force and effect.

[signature page follows]

**SIGNATURE PAGE TO
AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

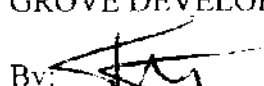
DECLARANT

TJL INVESTMENTS, LLC

By: 
Terry J. Lutz, Manager

OWNER

GROVE DEVELOPMENT, LLC

By: 
Terry J. Lutz, Manager

STATE OF IOWA, COUNTY OF POLK:

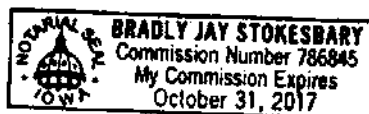
This record was acknowledged before me this 6 day of May, 2016, by Terry J. Lutz as Manager of TJL Investments, LLC.




Signature of Notary Public

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me this 6 day of May, 2016, by Terry J. Lutz as Manager of Grove Development, LLC.



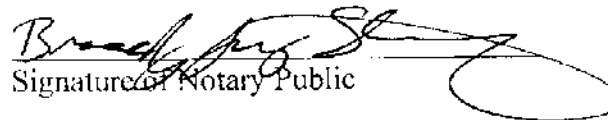

Signature of Notary Public

Exhibit "A"

Legal Description of Additional Property

LEGAL DESCRIPTION:

BEING A PART OF PARCEL 2016-50, RECORDED IN POLK COUNTY RECORDS AT BOOK 15967, PG 99, BEING A PART OF PARCEL B, RECORDED IN POLK COUNTY RECORDS AT BOOK 15670, PAGE 87, BEING ALL OF PARCEL C, RECORDED IN POLK COUNTY RECORDS AT BOOK 15778, PG 974, BEING PART OF OUTLOT Y AND OUTLOT Z OF THE GROVE REDEVELOPMENT PLAT 1, ALSO BEING PART OF OUTLOT A OF THE GROVE PLAT 1, CITY OF ANKENY, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL B, ALSO BEING THE NORTHEAST CORNER OF SAID PARCEL C, AND ALSO BEING THE NORTHEAST CORNER OF SAID OUTLOT Z OF THE GROVE REDEVELOPMENT PLAT 1; THENCE ALONG THE NORTH LINE OF SAID OUTLOT Z N89°38'53"W, 1279.38 FEET; THENCE DEPARTING SAID NORTH LINE S00°24'32"W, 433.96 FEET; THENCE S03°40'12"W, 30.82 FEET; THENCE S31°50'01"W, 206.96 FEET; THENCE S50°44'50"E, 139.55 FEET; THENCE S39°15'10"W, 17.52 FEET; THENCE S50°44'50"E, 185.00 FEET; THENCE S36°28'59"W, 141.55 FEET; THENCE S44°06'50"E, 228.43 FEET; THENCE 186.53 FEET ALONG A 235.00 FOOT RADIUS CURVE, CONCAVE NORTH, CHORD BEARING S66°51'09"E, 181.67 FEET; THENCE S89°35'28"E, 278.37 FEET; THENCE S00°24'32"W, 130.00 FEET; THENCE N89°35'28"W, 16.50 FEET; THENCE S00°24'32"W, 159.50 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 2016-50; THENCE ALONG SAID SOUTH LINE S89°35'28"E, 641.00 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 2016-50; THENCE ALONG THE EAST LINE OF SAID PARCEL 2016-50 N00°24'32"E, 1496.80 FEET TO THE POINT OF BEGINNING. DESCRIBED PARCEL CONTAINS 38.69 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

1-2
CMA

Doc ID: 031482760002 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 12/16/2016 at 10:10:09 AM
Fee Amt: \$12.00 Page 1 of 2
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2016-00054122

BK **16311** PG **498-499**

COPY

RETURN TO:

Prepared by and Return to: Christopher J. Langpaul, Hubbard Law Firm, P.C., 10605 Justin Drive, Urbandale, IA 50322; Phone: (515) 222-1700
Previously Filed Document: Book 14564 Page 521

**AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS AMENDMENT TO DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS (the "Amendment") is made this 23 day of November, 2016 (the "Effective Date"), by Grove Development, LLC, an Iowa limited liability company ("Owner" and "Declarant"). This Amendment relates to the Declaration of Residential Covenants, Conditions and Restrictions dated August 14, 2012 and recorded December 7, 2012 in Book 14564 Page 521 in the records of the Recorder of Polk County, Iowa, as amended (collectively, the "Declaration").

WHEREAS, pursuant to Article XXV of the Declaration, the Declaration states "...until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners of other party."; and

WHEREAS, Grove Development, LLC is the successor to Kidman Farm Development, LLC and as such is the current Declarant; and

WHEREAS, the Declarant still owns Lots within the Property governed by the Declaration; and

WHEREAS, the Declarant now desires to amend the Declaration as set forth below;

NOW, THEREFORE, pursuant to the authority described in the Declaration, Declarant hereby takes the following action set forth more fully below.

1. Designation of Acceptable Color. Pursuant to Article III, Section E of the Declaration, the Declarant hereby designates in writing that the only acceptable colors for exterior painted portions of any dwelling unit, garage or Outbuilding located on any Lot are earth tone colors. Notwithstanding this written designation, the Declarant reserves the right to

accept colors which are not earth tone colors in Declarant's sole and subjective discretion and only upon Declarant's written approval.

2. No Other Changes. Except as set forth in this Amendment, all other provision set forth in the Declaration remain unchanged and in full force and effect.

OWNER / DECLARANT

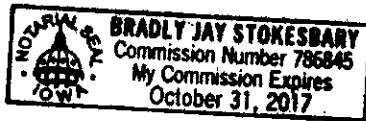
GROVE DEVELOPMENT, LLC

By: 
Terry J. Lutz, Manager

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me this 23 day of November, 2016, by Terry J. Lutz as Manager of Grove Development, LLC.


Signature of Notary Public



22



Doc ID: 033361460004 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 09/18/2018 at 11:43:39 AM
Fee Amt: \$22.00 Page 1 of 4
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2018-00022938

BK **17081** PG **149-152**

RETURN TO:

Prepared by and Return to: Aaron M. Hubbard, Hubbard Law Firm, P.C., 2900 100th St., Suite 209, Urbandale, IA 50322; Phone: (515) 222-1700

**AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS AMENDMENT TO DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS (the "Amendment") is made this 13 day of August, 2018 (the "Effective Date"), by Grove Development, LLC, an Iowa limited liability company ("Owner" and "Declarant"). This Amendment relates to the Declaration of Residential Covenants, Conditions and Restrictions dated August 14, 2012 and recorded December 7, 2012 in Book 14564 Page 521 in the records of the Recorder of Polk County, Iowa, as amended (collectively, the "Declaration").

WHEREAS, pursuant to Article XXIII, Section 2 of the Declaration, the Declaration grants to Declarant the irrevocable right to subject additional land to the terms and conditions of the Declaration at any time without approval or consent of the Association or any other person; and

WHEREAS, pursuant to Article XXV of the Declaration, the Declaration further states "...until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Owners of other party."; and

WHEREAS, Grove Development, LLC is the successor to Kidman Farm Development, LLC (the original Declarant) and Grove Development, LLC still owns Lots within the development; and

WHEREAS, Grove Development, LLC owns the following real estate (the "Additional Property") which is legally described after platting as follows:

Lots 1 – 40 in The Grove Plat 4, an Official Plat, in and forming a part of the City of Ankeny, Polk County, Iowa

WHEREAS, Grove Development, LLC desires to add the Additional Property to the Declaration upon the filing of this Amendment and to make the additional amendments to the Declaration stated below; and

NOW, THEREFORE, pursuant to the authority described in the Declaration, Declarant hereby takes the following action set forth more fully below.

1. Addition of Property. Declarant hereby adds the Additional Property to the Declaration, which Additional Property shall be subject to and governed by all of the terms and conditions of the Declaration, as amended, and the current Owners of the Additional Property, and all future owners of Lots within the Additional Property, shall automatically become members of the Association in the same manner as described in the Declaration and are hereby subjected to the same terms, conditions, duties and assessments as described in the Declaration.
2. Modifications to the Building Area Design and Construction. With regard to the Additional Property, the following requirements are imposed upon the following Lots and shall modify those requirements found in Article III Sections A and B of the Declaration:

Lots 1-32 in The Grove Plat 4:

- a. One and one-half story, two story, split-level, and split foyer dwellings must have a finished area of not less than 1,630 square feet.
- b. One story or ranch dwellings must have a finished area of not less than 1,330 square feet.

Lots 33-40 in The Grove Plat 4:

- c. One story dwellings must have a main floor finished area of not less than 1,600 square feet.
- d. One and one-half story, split-level, and split foyer dwellings must have a main floor finished area of not less than 1,800 square feet.
- e. Two story dwellings must have a main floor finished area of not less than 2,200 square feet.

3. Additional Restrictions on Lots 33-40 in The Grove Plat 4. The following additional terms, conditions and restrictions are imposed on Lots 33-40 in The Grove Plat 4, and shall control over any terms that may be in conflict elsewhere in the Declaration:
 - a. Exterior lighting installed on any Lot shall either be indirect or such a controlled focus and intensity as not to disturb the resident of adjacent Lots.

- b. Walls, fences and hedges not exceeding six (6) feet in height are permitted along rear Lot lines and side Lot lines behind the centerline of the house built on a Lot.
 - c. Approved fencing material shall be limited to the following: black vinyl chain link, black wrought iron/aluminum, tan or white PVC, brick or stone.
 - d. No wood fencing shall be allowed on any Lot.
 - e. Exterior foundations exposed above finish grade, which are not faced with brick or stone, must be painted.
 - f. Vinyl or steel sidings shall not be allowed. LP Smart Side and Concrete Fiber Cement are acceptable siding materials.
 - g. Roof materials shall be a minimum of 30-year warranty laminated or textured shingles. Wood shakes, wood shingles, slate or concrete barrel tile are also allowed.
 - h. Exterior paint colors must be earth tone or neutral colors.
 - i. All dwellings shall have at least a two-car attached garage.
 - j. All dwellings shall have a minimum of two hundred (200) square feet of stone or brick on the front elevation.
4. No Other Changes. Except as set forth in this Amendment, all other provision set forth in the Declaration remain unchanged and in full force and effect.

[signature page follows]

**SIGNATURE PAGE TO
AMENDMENT TO
DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS
AND RESTRICTIONS**

OWNER & DECLARANT

GROVE DEVELOPMENT, LLC

By: 

Terry J. Lutz, Manager

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me this 13 day of August, 2018, by
Terry J. Lutz as Manager of Grove Development, LLC.



Signature of Notary Public



ANNA GREIMAN
Commission Number 809219
My Commission Expires
03/01/2021