

WASHINGTON COUNTY, STATE OF NEBRASKA
INSTRUMENT NO. 2016 - 03761

Karen A. Madsen

REGISTER OF DEEDS

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KAREN A. MADSEN
WASHINGTON COUNTY
REGISTER OF DEEDS
BLAIR, NE

**THIRD AMENDMENT TO DECLARATION
OF COVENANTS, EASEMENTS AND RESTRICTIONS
FOR THE ESTATES AT HIDDEN ACRES
TAX LOTS 140 THROUGH 146,
INCLUDING LOTS 1 THROUGH 6 OF HIDDEN ACRES ESTATES**

This Third Amendment to Declaration of Covenants, Easements and Restrictions (the "Second Amendment") is made as of the 12th day of October, 2016, by Hidden Acres Farms, L.L.C., a Nebraska limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, a Declaration of Covenants, Easements and Restrictions was filed for record by Declarant on March 20, 2014, as Instrument No. 2014-00728 in the office of the Register of Deeds of Washington County, Nebraska (the "Original Declaration");

WHEREAS, a First Amendment to Declaration of Covenants, Easements and Restrictions was filed for record by Declarant on March 27, 2014, as Instrument No. 2014-00815 in the office of the Register of Deeds of Washington County, Nebraska (the "First Amendment"), for the purpose of correcting the name of the Declarant;

WHEREAS, a Second Amendment to Declaration of Covenants, Easements and Restrictions was filed for record by Declarant on December 7, 2015, as Instrument No. 2015-04340 in the office of the Register of Deeds of Washington County, Nebraska (the "Second Amendment", and together with the Original Declaration and the First Amendment, the "Declaration");

WHEREAS, the Declaration currently encumbers the real property described as follows:

Tax Lots 140 through 146, inclusive, known as The Estates at Hidden Acres, Section 14, T17N, R12E of the 6th P.M., as surveyed and recorded in Washington County, Nebraska (unless the context otherwise requires Tax Lots 140 through 146, inclusive, shall be referred to individually as a "Lot" and collectively as the "Lots"); a portion of the Initial Lots have been replatted to form Lots 1 through 6

of Hidden Acres Estates, a subdivision in Washington County, Nebraska (the "Platted Lots").

WHEREAS, the Declaration currently calls for the incorporation of The Estates at Hidden Acres Homeowners Association, a Nebraska not for profit corporation (the "Association") for the purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots;

WHEREAS, Declarant desires to confirm that owners of the "Lots" defined in the Declaration of Covenants, Easements and Restrictions for Ole Hickory Farm dated as of July 22, 2016, recorded on September 1, 2016, as Instrument No. 2016-02979 (the "Ole Hickory Farm Lots") will be Members of the Association.

NOW, THEREFORE, Declarant hereby agrees that the Declaration shall be modified and amended as follows:

1. Article II of the Declaration is amended to provide:

"1. Declarant shall cause the incorporation of The Estates at Hidden Acres Homeowners Association, a Nebraska not for profit corporation (the "Association"). The Association shall have as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots and the "Lots" defined in the Declaration of Covenants, Easements and Restrictions for Ole Hickory Farm dated as of July 22, 2016 (the "Ole Hickory Farm Declarations"), recorded on September 1, 2016, as Instrument No. 2016-02979 (the "Ole Hickory Farm Lots", and together with the Lots, the "Association Lots"), including, but not limited to:

(a) The acquisition, construction, landscaping, improvement, equipping, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include dedicated and nondedicated roads, paths, ways and green areas; sewers, drainage structures, drainage ways and appurtenances thereto; and signs and entrances for The Estates at Hidden Acres and Ole Hickory Farm. Common Facilities may be situated on property owned or leased by the Association, or on dedicated property.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of The Estates at Hidden Acres and Ole Hickory Farm; and the protection and maintenance of the rural character of The Estates at Hidden Acres and Ole Hickory Farm.

2. Each Association Lot owner shall be a Member of the Association. Membership shall be appurtenant to ownership of each Association Lot, and may not be separated from ownership of each Association Lot. Each Association Lot owner, whether one or more persons or entities, shall be entitled to one vote on each matter properly coming before the Members of the Association.

3. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors and, upon authorization of the Board of Directors, by the Officers, shall include but shall not be limited to the following:

(a) The development, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

(b) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration or the Ole Hickory Farm Declarations, as applicable.

(c) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(d) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration and the Ole Hickory Farm Declarations, as applicable, as the same may be amended from time to time.

(e) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

(f) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual fund, pooled funds, certificates of deposit or the like.

(g) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

(h) General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

(i) The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Notwithstanding the provisions of Section 3 of this Article II, Declarant shall be responsible for the maintenance, operation, repair, upkeep and replacement of the Common Facilities until such time as Declarant has conveyed fee simple title to three (3) Lots. Thereafter, these obligations shall be undertaken by the Association as provided in this Article II. Except as expressly provided herein, Declarant shall not be obligated to exercise any of the powers, or assume any of the obligations, of the Association set forth in this Article II. Until such time as the Association is formed and operational, each Association Lot owner will pay the Declarant one thousand dollars (\$1,000.00) per year to help cover maintenance cost to the Common Facilities. Subsequent to the sale of three Lots, the one thousand dollars (\$1000.00) per year fee will be paid to the Home Owners Association.

5. The Association may fix, levy and charge the owner of each Association Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board. Until such time as the Association is operational, the power to fix, levy and charge the dues and assessments shall be vested in the Declarant.

6. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Association Lot, and shall abate all dues and assessments due in respect of any Association Lot during the period such Association Lot is owned by the Declarant or the declarant listed in the Ole Hickory farm Declarations.

7. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the owner of each Association Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Association Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article II, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article II.

9. Unless excess dues have been authorized by the Members in accordance with Section 11 of this Article II, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

- (a) One Thousand Dollars (\$1,000.00) per Association Lot.

(b) In each calendar year beginning on January 1, 2015, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to One Thousand Dollars (\$1,000.00) per Association Lot.

11. With the approval of seventy-five percent (75%) of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

12. Assessments and dues shall be fixed at a uniform rate as to all Association Lots, but dues may be abated as to individual Association Lots, as provided in Section 6 of this Article II.

13. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Association Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the Association Lot or Association Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Association Lot owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Association Lot. The mortgagee of any Association Lot shall have the right to cure any delinquency of an owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Association Lot shall not affect or terminate the dues and assessment lien.

2. Any reference to the "Declaration" in the Declaration shall include this Amendment.

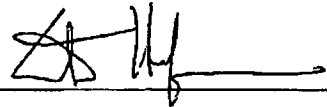
3. Declarant desires to ratify and reaffirm that the Declaration and all of its provisions shall be and are covenants to run with the Lots, and shall be binding upon all parties having or acquiring any right, title or interest in the Lots or any part thereof, from time to time, and shall inure to the benefit of each owner thereof.

As amended hereby, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed and delivered this Second Amendment as of the date first above written.

DECLARANT:

Hidden Acres Farms, L.L.C.,
a Nebraska limited liability company

By: 

Name: Curt Hofer

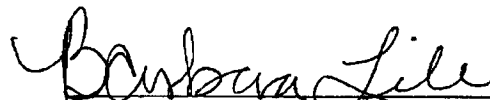
Title: Manager

STATE OF NEBRASKA)
)ss.
COUNTY OF Douglas

Before me, a Notary Public qualified for said County and State, personally came Curt Hofer, Manager of Hidden Acres Farms, L.L.C., a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed on behalf of said limited liability company.

WITNESS my hand and Notary Seal on this 12th day of October 2016.




Notary Public