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Chad C. Airhart Recorder
Dallas County, Iowa

**SECOND RESTATED AND SUBSTITUTED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOUTHFORK PLAT NO. 1 AND SOUTHFORK PLAT NO. 2**

Recorder's Cover Sheet

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N/A

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Grantors:

N/A

Grantees:

N/A

Legal Description: Lots 1 through 38, inclusive, Southfork Plat No. 1, a proprietor's plat, in the City of Waukee, Dallas County, Iowa; and
Lots 1 through 54, inclusive, Southfork Plat No. 2, a proprietor's plat, in the City of Waukee, Dallas County, Iowa

Document or instrument number if applicable:

SECOND

RESTATED AND SUBSTITUTED DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SOUTHFORK PLAT NO. 1 AND SOUTHFORK PLAT NO. 2

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RECITALS:

WHEREAS, the Declarant as the then owner of certain real property located in Dallas County, Iowa, and described as Lots 1 through 38 inclusive, Southfork Plat No. 1, a proprietor's plat, in the City of Waukee, Dallas County, Iowa, and Lots 1 through 54, inclusive, Southfork Plat No. 2, a proprietor's plat, in the City of Waukee, Dallas County, Iowa (collectively the "Property") adopted and caused to be recorded a Declaration of Residential Covenants, Conditions, and Restrictions covering the property comprising Southfork Plat No. 1 and also adopted and caused to be recorded a separate Declaration of Residential Covenants, Conditions, and Restrictions covering the property comprising Southfork Plat No 2 which Declaration of Residential Covenants, Conditions, and Restrictions were respectively recorded at Book 8, Page 367 of the records of the Dallas County Recorder and Book 8, Page 720 of the records of the Dallas County Recorder ("Original Declarations"); and

WHEREAS, a Majority of the then current Lot Owners of the Property comprising Southfork Plat No. 1 and Southfork Plat No. 2 approved the Restated and Substituted Declaration of Covenants, Conditions, and Restrictions for Southfork Plat No. 1 and Plat No. 2, which were recorded at Book 1999, Page 4377 in the records of the Dallas County Recorder ("Restated Declaration") to replace the Original Declaration, as amended; and

WHEREAS, a Majority of the current Lot Owners of the Property comprising Southfork Plat No. 1 and Southfork Plat No. 2 approved these Second Restated and Substituted Declaration of Covenants, Conditions, and Restrictions for Southfork Plat No. 1 and Plat No. 2 to replace the Restated Declaration, as amended.

NOW THEREFORE, it is hereby published and declared that all of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, conditions, uses, limitations and obligations, all of which are for the purpose of protecting the value and desirability of the property and all of which shall run with the land and shall be a burden and benefit to, and shall be binding upon, the Declarant, its successors and assigns, and all persons or entities presently owning or hereafter acquiring or owning any right, title, and interest in any part of the Property.

I.

DEFINITIONS.

For the purpose of this Restated and Substituted Declaration, the following terms shall have the following definitions, except as otherwise specifically provided.

- A. **Southfork Plat No. 1** - shall mean and refer to the Property described as Lots 1 through 38, inclusive, Southfork Plat No. 1, a proprietor's plat, in the City of Waukee, Dallas County, Iowa.

- B. **Southfork Plat No. 2** – shall mean and refer to the Property described as Lots 1 through 54, inclusive, Southfork Plat No. 2, a proprietor’s plat, in the City of Waukee, Dallas County, Iowa.
- C. **Property** – shall mean and refer to the property comprising Southfork Plant No. 1 and Southfork Plat No. 2.
- D. **Declarant** – shall mean Tomrik, Inc. and its successors and assigns.
- E. **Lot** – shall mean and refer to each parcel of land, which is included in the Property and is shown as a numbered Lot upon the recorded plat of Southfork Plat No. 1 or Southfork Plat No. 2.
- F. **Building Plot** – shall mean and refer to one or more Lots, or one Lot and portion of an adjacent Lot or Lots owned by the same Owner and intended for use in connection with a single Dwelling.
- G. **Owner** – shall mean and refer to the record owner, whether one or more persons or entities, of the equitable title to any Lot or Building Plot, which is a part of Southfork Plat No. 1 and Southfork Plat No. 2.
- H. **Outbuilding** – shall mean (1) an enclosed covered Private Garage directly attached to, but not a part of, the Dwelling to which it is appurtenant, (2) an unattached Private Garage, or (3) a Horse Barn structure. No outbuilding shall exceed 30’ x 50’ in size.
- I. **Dwelling** – shall mean a single family residential building or structure.
- J. **Accessory Structure** – shall mean any improvement that is not a Dwelling or an Outbuilding, including but not limited to a dog run, swimming pool, sport court, trash enclosure, dock or any other improvement constructed on a Building Plot.
- K. **Association** – shall mean Southfork Homeowners Association, an Iowa non-profit corporation.
- L. **Board** – shall mean the Board of Directors of the Southfork Homeowners Association.
- M. **In Writing** – shall mean printed on paper or in an electronic form capable of being printed on paper.

II.

DESIGNATION OF USE

Each Lot shall be known and described as a single family residential lot. It shall not be further subdivided nor developed with more than one Dwelling, and shall not be improved, used, or occupied for other than private residential purposes. No full time public business activity may

be conducted on any Lot or in any Dwelling, Outbuilding or Accessory Structure constructed or maintained on any Lot, except that model homes will be permitted during the construction period thereof and except that a home office business, without outside employees, will be allowed to operate out of a Dwelling. An "outside employee" means a person who is not an Owner or a member of the Owner's family residing on the Lot.

III.

BUILDINGS

- A. No building or structure shall be constructed, altered, or maintained on any Building Plot other than one Dwelling and one Outbuilding, except as permitted under Section XXI hereof. Plans for each Dwelling, Accessory Structure, and Outbuilding must be submitted In Writing and approved, In Writing, by the Board prior to construction of such Dwelling, Accessory Structure or Outbuilding in accordance with Section XIII.
- B. No structure of any kind shall be moved onto any Lot.
- C. The exterior of the Dwelling, Accessory Structure and Outbuildings located on any Lot shall be constructed to compliment each other with like materials of wood, brick, stone, stucco or simulated wood siding. Roofing shall be of wood shake, roof tile, or minimum 30 year dimensional heavy decorator shingles, i.e., Hallmark, Landmark, Timberline, or equal quality. Samples and specifications of siding, brick, shingles, and other exterior building materials must be approved, In Writing, by the Board before such materials are used on any Dwelling, Accessory Structure or Outbuilding. Prior to application to the exterior of any Dwelling, Accessory Structure or Outbuilding, paint(s) and stain(s) for color(s) other than the existing color(s) must be submitted to the Board for approval In Writing. Routine repainting using the existing colors does not require Board approval.
- D. No tile foundations shall be permitted on any Dwelling, Outbuilding, or Accessory Structure. All exposed exterior concrete or concrete block wall material shall be painted, veneered or covered with stucco. Paint color(s) shall complement the siding, brick or stone veneer of the Dwelling, Accessory Structure or Outbuilding.
- E. No walkout basement of any Dwelling or Outbuilding located on Lots 15, 16, 17, 18, 20, 21, 22, 33, 34, 35, 36, 37, and 38 of Southfork Plat No. 1 or on Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, or 19 of Southfork Plat No. 2 shall have a floor elevation which is less than 961 feet above sea level. The minimum water entry level or floor elevation on any Dwelling or Outbuilding on Lots 48, 49, 50, 51, and 52 of Southfork Plat No. 2 shall be 972 feet above sea level.
- F. No Horse Barn Outbuilding shall be erected on any Lot except Lots 7, 9, 23, 24, 28, 29, 30, 31, and 32 of Southfork Plat No. 1 and Lot 27 of Southfork Plat No. 2.

IV.

BUILDING AREA

No Dwelling shall be constructed or permitted to remain upon any Building Plot unless it meets the following size requirements:

- A. One-story Dwellings must have a ground floor finished area of not less than 2,100 square feet.
- B. One and one-half story Dwellings must have 1,500 square feet of finished area on the ground floor. The total finished area of the ground floor and the second floor must be not less than 2,300 square feet.
- C. Two-story Dwellings must have 1,300 square feet of finished area on the ground floor and a total finished area of the ground floor and the second floor must be less than 2,300 square feet.
- D. Split-level Dwellings must have not less than 1,800 square feet of finished area on the levels or levels directly under the roof and a total finished floor area of not less than 2,300 square feet.

In the computation of ground floor area of the Dwelling, any porches, breezeways, and attached or built-in garages shall not be included.

V.

SET-BACKS FOR LOTS IN SOUTHFORK PLAT NO. 1

- A. No Dwelling or Outbuilding shall be erected nearer than 50' to the front or rear Lot line (Lake Lots and Horse Lots shall also be subject to the provisions of Sections XXIV and XXVI respectively), nor shall any Dwelling or Outbuilding be erected nearer to 12' to the side Lot line of any Lot.
- B. Any Horse Barn Outbuilding erected on Lot 7, 9, 23, 24, 28, 29, 30, 31, or 32 shall be erected within the confines of the pasture area as shown on the recorded plat of Southfork Plat No. 1, shall be located no closer than 100' to the boundary lines of Southfork Plat No. 1, and shall be located no closer than 20' to any adjacent Lot or Building Plot.
- C. On Lots 15, 16, 17, 18, 19, 20, 21, 33, 34, 35, 36, and 37 no Dwelling or Outbuilding shall be erected nearer than 75' from the normal location of the shoreline of the water impoundment on the Lot. On Lots 5, 6, 7, 8, 9, 10, 11, 12, 22, 24, 25, 26, 27, and 38 no Dwelling or Outbuilding shall be erected nearer than 45' from the normal location of the shoreline of the water impoundment on the Lot.

D. Set-back requirements for Accessory Structures are as follows:

1. Accessory Structures, including associated fencing, may not be erected nearer than 12' to the side and rear lot lines of any Lot. Except for docks and water-related structures, the shoreline setbacks for Accessory Structures on Lake Lots are the same as those specified for Dwellings and Outbuildings in subsection C above.
2. Fences associated with Accessory Structures may not be erected closer to the street than 22' behind the front building line of the Dwelling.

VI.

SET-BACKS FOR LOTS IN SOUTHFORK PLAT NO. 2

- A. No Dwelling or Outbuilding shall be erected nearer than 50' to any rear Lot line (Lake Lots and Horse Lots shall also be subject to the provisions of Sections XXIV and XXVI respectively). No Dwelling or Outbuilding shall be erected nearer than 50' to the front Lot line of Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, or 46. No Dwelling or Outbuilding shall be erected nearer than 40' to the front Lot lines of Lots 2, 3, 19, 29, 30, 31, 32, 48, 49, 50, 51, 52, or 53. No Dwelling or Outbuilding shall be erected nearer than 35' to the front Lot line of Lot 1. Any Dwelling or Outbuilding on Lot 4 shall conform to the variable width front yard setback as shown on the plat to measure 50' on the Easterly Lot line and 40' on the Westerly Lot line. Any Dwelling or Outbuilding on Lot 28 or 33 shall conform to the variable width front yard setback as shown on the plat to measure 50' from Lot D (Southfork Drive) and 40' from Lot F (Dallas Point). Any Dwelling or Outbuilding on Lot 18 and 47 shall conform to the variable width front yard setback as shown on the plat to measure 50' on the Northerly Lot line and 40' on the Southerly Lot line. Any Dwelling or Outbuilding on Lot 54 shall conform to the variable width front yard setback as shown on the plat. No Dwelling or Outbuilding shall be erected nearer than 12' to the side Lot line of any Lot
- B. Any Horse Barn Outbuilding erected on Lot 27 shall be erected within the confines of the pasture area as shown on the Recorded Plat of Southfork Plat No. 2, shall be located no closer than 100' to the boundary lines of Southfork Plat No. 2, and shall be located no closer than 20' to the adjacent Lot or building Plot.
- C. On Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, no Dwelling or Outbuilding shall be erected nearer than 75' from the normal location of the shoreline of the water impoundment on the Lot. On Lots 3, 4, 5, 18, 20, 21, 22, 23, 24, 25, 26, and 27, no Dwelling or Outbuilding shall be erected nearer than 45' from the normal location of the shoreline of the water impoundment on the Lot. On Lots 2, 19, 28, 29, 30, 31, 32, 34, 35, 36, 37, 48, 49, 50, 51, and 52, no Dwelling or Outbuilding shall be erected nearer than 25' from the normal location of the shoreline of the water impoundment on the Lot.

D. Set-back requirements for Accessory Structures are as follows:

1. Accessory Structures, including associated fencing, may not be erected nearer than 12' to the side and rear lot lines of any Lot. Except for docks and water-related structures, the shoreline setbacks for Accessory Structures on Lake Lots are the same as those specified for Dwellings and Outbuildings in subsection C above.
2. Fences associated with Accessory Structures may not be erected closer to the street than 22' behind the front building line of the Dwelling.

VII.

PRIVATE GARAGES

Each Dwelling shall include a two-car, or larger, attached or built-in basement garage. In addition, one (1) Outbuilding, not to exceed 30' X 50', will be permitted provided said Outbuilding meets all requirements herein and is approved by the Board In Writing. The Outbuilding must architecturally blend with the proposed or existing Dwelling on said Lot and must not diminish water views from neighborhood Lots.

VIII.

DRIVEWAYS

No Dwelling or private garage shall be constructed, altered, or maintained on any Building Plot unless it is connected by a driveway to a street adjacent to the Building Plot. Such driveway must be of sufficient area to park at least four cars entirely off the adjacent street. All driveways shall be constructed of poured concrete, concrete paver, or bituminous surfacing. The design, specifications and colors must be approved, In Writing by the Board, prior to installation.

IX.

TEMPORARY STRUCTURES, VEHICLES AND EQUIPMENT

- A. Only the principal residential Dwelling on any Building Lot may be used for human habitation. No other building, structure, trailer, tent, garage or shelter of any kind shall be used for human habitation on any Building Plot for any period of time exceeding seven (7) days in a calendar month.
- B. Any recreational vehicle, power watercraft, trailer or equipment of any kind (including construction and farm equipment) remaining on any lot for a period of time exceeding ten (10) days in a calendar month must be stored in a Dwelling, Outbuilding or private garage. All vehicles parked on any driveway must have a valid registration and license plates and be operated regularly.

C. Waukee City Ordinances, as amended from time to time, prohibiting outdoor storage of motor vehicles and requiring any motor vehicle to be parked only on a paved surface are hereby incorporated by reference.

X.

SIGNS

No signs of any kind or description shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto for more than seven (7) days in a calendar year except:

1. street markers, traffic signs, and other signs displayed by the City of Waukee or by other governmental units;
2. signs not exceeding 144 square inches in area upon which there shall be exhibited the street number or name, or both, of the resident;
3. real estate signs advertising a Dwelling for sale;
4. temporary signs advertising garage sales; and
5. one (1) "Private Property – No Trespassing" or other sign with a similar message may be placed on Lots adjacent to water impoundments. Such signs shall be made of permanent materials, may have printing on both sides, shall not exceed 144 square inches and are subject to Board approval In Writing.

XI.

TRASH RECEPTACLES

Trash receptacles or garbage cans shall be stored in a Dwelling, private garage, Outbuilding or shielded from street and neighborhood views by an attractive screen (solid materials or vegetation) of suitable height and material as approved by the Board In Writing.

XII.

UTILITIES

All utility connection facilities and services shall be underground. No individual water supply system shall be permitted on any Building Plot, except for irrigation purposes. Individual septic systems must meet all public health requirements.

XIII.

BUILDING AND LANDSCAPE CONTROL

- A. All proposed building (including the construction of Dwellings, Outbuildings, Accessory Structures and fences) and landscape plans must be submitted In Writing to the Board, for approval and must be approved In Writing by the Board prior to construction of any Dwelling, Outbuilding or other Accessory Structure, or fence on any Building Plot. The Board may require submission of such additional information as it determines may be helpful to its review of the proposal. Once all required documentation has been submitted to the Board, it will consider the request and either approve or deny the request In Writing whereby such decision is not unreasonably withheld or delayed.
- B. The Board may adopt, In Writing, standards in addition to those set forth in this Declaration, and if such standards are adopted, any proposed building and landscaping shall be in substantial compliance with those standards. In any event, any proposed building and landscape plans must be in harmony with the external design of existing Dwellings and the location in relation to surrounding structures and topography in the vicinity. The Board may consult with an architect, engineer or other qualified person for guidance on any request or for the adoption of standards. A decision to approve or disapprove any request shall be made by the Board acting in its reasonable discretion.
- C. The Board shall notify the Lot owner In Writing of any deviation in construction, design, finish, or location from the approved plans or of unapproved construction, fencing and landscaping that, in the judgment of the Board, is a detriment to the appearance of the structure and/or surrounding area.
- D. Such deviation shall be corrected by the Owner, at the Owner's sole expense, to conform to approved plans within the time established by the Board in the notice, or if no time is specified in the notice, then within 30 days. The Board may grant one or more extensions if it deems such action to be appropriate in the circumstances.
- E. Each Owner of a Building Plot will be required before occupancy of a Dwelling on said Building Plot, to plant two hardwood trees (2" caliper or more) and four hardwood trees of 1-1/2" caliper or more. In addition, all unimproved areas of said Plot shall either be sodded or seeded before said occupancy. If said occupancy will occur during a season which makes it impossible to accomplish each task, occupancy shall occur and said work will immediately be completed by the Owner when weather conditions first permit.
- F. The Board may prohibit the planting of vegetation that in its judgment will diminish the view of any water impoundment from neighborhood Lots. In acting to prohibit a planting, the Board may consider whether the normal growth of the vegetation is likely to diminish the view in the future even if the original planting would not do so.

XIV.

NUISANCES

No noxious or offensive activity or odors shall be permitted on or to escape from any Building Plot, nor shall anything be done thereon which is, or may become an annoyance or a nuisance, either temporarily or permanently. This restriction shall not prohibit the keeping of horses on Lots 7, 9, 23, 24, 28, 28, 29, 30, 31, and 32 of Southfork Plat No. 1 or Lot 27 of Southfork Plat No. 2.

XV.

LIVESTOCK, POULTRY AND PETS

- A. Except for the keeping of a maximum of three (3) horses on Lots 7, 9, 23, 24, 28, 29, 30, 31, and 32 of Southfork Plat No. 1 and Lot 27 of Southfork Plat No. 2, no livestock or poultry shall be raised, bred or kept on any Lot.
- B. Notwithstanding the foregoing, dogs, cats, and other common household pets may be kept on any Lot so long as they are not kept, bred, or maintained for commercial purposes.
- C. Any dog must be tied, restrained by invisible fencing, or fenced or in a dog run when outside the Dwelling. In no event shall more than three horses be permitted on any Lot where horses may be kept. See section XVII for standards pertaining to the construction of dog runs and invisible fencing.

XVI.

EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities and access for continuous police and fire protection are reserved as shown on the recorded plats of Southfork Plat No. 1 and Southfork Plat No. 2. The Owner of a Building Plot shall, at his/her own expense, keep and preserve that portion of any such easements within his/her Building Plot in good repair and conditions at all times. The Owner shall neither erect nor permit erection, of any Dwelling, Outbuilding or Accessory Structure, or fences of any kind, nor permit any use of said easement which might interfere in any way with the dedicated and intended purpose of the easements.

XVII.

FENCES

- A All proposed and replacement fencing plans must be submitted for approval to the Board in accordance with section XIII. The plan shall contain the proposed location height, material and color of the fence. The Board may require fencing to be screened by vegetation or other

landscaping as a condition of its approval. All improvements must comply with state, county and city building codes and setback requirements.

- B. Fences may be constructed only for pool enclosures, dog runs, horse containment, sport courts and trash enclosures. Fencing standards for horse containment are found in Section XXVI, special Horse Lot Provisions. Fencing standards for trash enclosures are found in Section XI, Trash Receptacles. Set-backs for fences of Accessory Structures are found in Section VI.
- C. Hedges, screening, landscaping and fences shall not, in the judgment of the Board, diminish views of the water impoundments from other Lake Lots.
- D. Pool fencing shall completely surround the pool with a locked, non-climbable fence not less than 6' feet high, and not more than 15' feet from the pool decking.
- E. Dog runs/kennels shall not exceed 10' by 15' and must be in close proximity to the Dwelling.
- F. Fences shall be constructed of non-solid, rustproof metal materials of wrought iron or chain link type and shall be black in color.
- G. Invisible fencing for pet control is permitted and may be installed without Board approval.

XVIII.

LIGHTING

All outside lighting installed on each Lot shall be approved In Writing, by the Board, prior to installation.

XIX.

WEED CONTROL

- A. The Owner of each Lot, whether vacant or improved, shall keep grass and other ground cover on the Lot mowed to a reasonable height not to exceed six inches and shall keep their Lot free of weeds including but not limited to, thistles, dandelions or other weeds and debris.
- B. The Owner of each Lot shall promptly remove volunteer, dead and diseased trees and shrubs. Yard waste shall be promptly removed and shall not be deposited in water impoundments and beach areas, nor shall any grass clippings and other yard waste be left in streets.

XX.

ENFORCEMENT

- A. If any person shall violate or attempt to violate any of the covenants, conditions, or restrictions contained herein, the Association through the Board or the Owner of any Lot shall be entitled to prosecute proceedings in law or in equity against the person or persons violating or attempting to violate such covenants, conditions, or restrictions to either prevent him or them from so doing or to recover damages for such violations.
- B. In addition to the power to take legal action on behalf of the Association and its members, the Board in its discretion, may impose a fine of \$200 per month per violation against Lot Owners for violation of these Covenants, and such fines shall attach to and become a lien on the offending Owner's Lot.
- C. Prior to seeking a judicial remedy, the Board will give due consideration to using the procedures defined in Section 23 of the Southfork Homeowners Association By-Law's, Non-Judicial Enforcement Procedures.
- D. No delay or omission on the part of the Association, the Board, or any Owner of any Lot to which the covenants, conditions, and restrictions apply in exercising any rights, power, or remedy herein allowed shall be construed as a waiver or acquiescence therein, except as otherwise stated herein. No right, claim or action shall accrue to and no action or claim shall be brought or maintained by anyone against the Association or any Board member based on any action or inaction with respect to the enforcement hereof.
- E. Dwellings, Outbuildings, Fences, Accessory Structures and landscaping constructed in compliance with the Original Declarations or the Restated Declaration, as applicable, shall be deemed to be in compliance with this Second Restated Declaration. Provided however, that any changes to such improvements made after the effective date of this Second Restated Declaration are subject to all the requirements of this Second Restated Declaration.
- F. Dwellings, Outbuildings, Fences, Accessory Structures and landscaping approved for construction by the Board prior to the recording of this Second Restated Declaration shall be deemed to be in compliance with this Second Restated Declaration, provided that construction of such improvement is commenced within 180 days and completed within one year of receiving Board approval. The Board may, in the Board's sole discretion, extend the 180 day and one year periods if the Board finds that there were extenuating circumstances causing a delay in the commencement or completion of such improvement.

XXI.

ACCESSORY STRUCTURES

- A. As a condition of its approval, the Board may require a dog run, swimming pool, sport court, trash receptacle, or other Accessory Structure, to be properly screened by reasonable shrubbery or decorative fence or both.
- B. No Accessory Structure shall be built without prior approval as provided in Section XIII hereof.
- C. Above-ground or non-permanent swimming pools and storage sheds shall not be permitted on any lot.
- D. Accessory Structures, including but not limited to swing sets, yard toys and docks, shall be maintained in good repair.
- E. Accessory Structures on Lake Lots shall not diminish the views of water impoundments from other neighborhood Lots.

XXII.

MODIFICATION OF RESTRICTIONS

This Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them. Any covenant, condition, restriction or other matter herein that is within the limitations of Iowa Code Section 614.24, shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-one (21) years from the date the Declaration is recorded, and may be extended for successive additional periods of twenty-one (21) years by filing a claim in accordance with Iowa Code Sections 614.24 and 614.25. Invalidation of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect. These covenants, restrictions, and provisions may be amended, modified, changed, or cancelled, in whole or in part, by written agreement signed by the Owners of more than fifty (50) percent of all Lots in Southfork Plat No. 1 and Southfork Plat No. 2, except all provisions herein relating to the dams and water impoundments, which shall be deemed to be perpetual easements appurtenant to the Lots affected thereby, and which shall run with the land.

XXIII.

SEVERABILITY

Invalidation of any or one or more of these covenants, conditions, or restrictions by statute or by judgment of any Court shall in no way affect any of the other covenants, conditions, or restrictions contained herein which shall remain in full force and effect.

XXIV.

LAKE LOT EASEMENTS, RESTRICTIONS AND MAINTENANCE

- A. Lots 5, 6, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 33, 34, 35, 36, 37, and 38 of Southfork Plat No. 1 and Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 48, 49, 50, and 51 of Southfork Plat No. 2 are hereby designated "Lake Lots".
- B. The Owner of each Lake Lot shall have a nonexclusive easement over and across the entire water impoundment which covers a portion of his/her Lot for the purposes of swimming, sail boating, canoeing and other water activities, excluding the use of motorboats. No motorboat shall be permitted on any water impoundment located in Southfork Plat No. 1 or Southfork Plat No. 2. No docks or decks on or adjacent to any water impoundment shall be erected unless previously approved, in writing by the Board.
- C. The Owner of each Lake Lot shall maintain his/her own shoreline on the water impoundment, which covers a portion of his/her Lot by riprapping the shore exclusively with Iowa DOT Gabian (3" to 9") limestone.
- D. Each Lot Owner shall be responsible to maintain his/her shoreline free of weeds, grass, volunteer trees and shrubs, and debris.
- E. All riprapping shall be placed and maintained at a minimum of 4' back of the edge of the water at normal pool level and a minimum of 3' into the water at normal pool level. Normal pool level is defined as when the water level of the impoundment is just going over the overflow outlet of each impoundment.
- F. The Owner of each Lake Lot may establish a sandy beach area along the shoreline of the water impoundment on his/her Building Plot and further provided the beach area is riprapped in the same manner as the remaining shoreline or is otherwise protected **against erosion** by a retaining wall made of boulders, bricks, decorative blocks, or stone that shall be approved by the Board In Writing.
- G. Each water impoundment located in Southfork Plat No. 1 and Southfork Plat No. 2 shall be used by the Owners of the Lake Lots which are partially covered by such impoundment, and such Owner's guests and invitees. Such water impoundments are not open to the public.
- H. The dams for the largest water impoundments located in Southfork Plat No. 1 and Southfork Plat No. 2 shall be conveyed by the Declarant to Southfork Homeowners Association, subject to easements to the City of Waukee, Iowa, for street and utilities, and subject to deed restrictions which shall be binding upon the Homeowners Association, its successors and assigns, placing the responsibility for the inspection and maintenance of such dam on the Owner thereof.

- I. No pumping or other means of removing water from the water impoundment areas for irrigation purposes or otherwise shall be allowed.

XXV.

MAILBOXES

The Owner of each Building Plot shall install and maintain a mailbox, approved by the Board on such Building Plot.

XXVI.

SPECIAL HORSE LOT PROVISIONS

- A. Lots 7, 9, 23, 24, 28, 29, 30, 31, and 32 of Southfork Plat No. 1 and Lot 27 of Southfork Plat No. 2 are hereby designated "Horse Lots." Each Horse Lot may have up to three (3) horses kept on it. If horses are kept on a Horse Lot, they shall be confined to the "pasture area" (i.e., the area behind the front yard building line for horse barns as designated on the recorded plats of Southfork Plat No. 1 and Southfork Plat No. 2. Each Horse Lot that has horses kept on it, shall be fenced with "horse fencing" which shall be approved by the Board of Directors In Writing. Horses shall be kept and ridden only in the pasture area and, in all events, only behind any Dwelling constructed on a Horse Lot. Horse fencing shall not extend into the residential section of said Lot as indicated on the recorded plats of Southfork Plat No. 1 and Southfork Plat No. 2, nor in any other areas except for the pasture area of the individual Horse Lot Owner's Lot.
- B. The Association, by a majority vote of its members and with the unanimous consent of all Horse Lot Owners, has abandoned the horse trail easement area as shown on the original recorded plats of Southfork Plat No. 1 and Southfork Plat No. 2. Accordingly, the horse trail easement as set forth in said plats shall no longer be considered to be common property. The Association shall have no responsibility with respect to the maintenance of the horse trail easement area including the exterior plat boundary fencing thereof.

No Horse Lot Owner shall have the right to use, occupy, or go on to the horse trail easement area of any other Horse Lot Owner. Each Horse Lot Owner shall be responsible for controlling weeds, etc., in the pasture area and in such horse trail easement area of the Horse Lot Owner's Lot. Additionally, each Horse Lot Owner shall be responsible for maintaining all fences on their property, including the exterior boundary fences. Proposed and replacement fencing must be approved by the Board of Directors In Writing prior to construction.

- C. Horse pasture fencing shall be maintained in good repair by the Owners of the Lots enclosed or separated by the fences. Said horse pasture fencing can only be used to enclose horse pasture areas as designated on the recorded Plat of Southfork Plat No. 1 and Southfork Plat No. 2.

XXVII.

HOMEOWNERS ASSOCIATION

- A. There shall be established a Homeowners Association known as Southfork Homeowners Association, an Iowa nonprofit corporation, of which each Lot Owner shall be a member.
- B. If a Lot is owned by more than one individual or entity, the individuals or entities owning such Lot shall designate one person or entity to be the voting member in connection with such Lot.
- C. The affairs of the Homeowners Association shall be governed and controlled by the Articles of Incorporation and Bylaws of that entity.
- D. The Association shall have the responsibility for inspecting and maintaining at its expense, the dam or dams located within Southfork Plat No. 1 and Southfork Plat No. 2, in full compliance with all applicable laws and regulations, now or hereafter enacted, of any governmental unit or agency having jurisdiction thereof provided, however, the City of Waukee shall have no responsibility for maintenance of any Lake Lot as relates to water impoundment areas, overflow pipes, structures or spillways which shall be the responsibility of adjoining Lot Owners as to water impoundment areas and the responsibility of the Southfork Homeowners Association as to overflow pipes, structures, and spillways.
- E. The Association shall stock the water impoundment with fish, and shall undertake such others actions and activities as may be determined by the members of the Association.
- F. The Association shall have the authority to make assessments to members which shall be liens upon the Lots owned by them in the event such assessments are unpaid when due. In no event, however, shall the liens, in any, be superior in right to the lien of any first mortgage loan placed against the property by any institutional lender but would be junior and inferior to such mortgage lien.

In the event an institution would acquire title to the property by foreclosure, deed in lieu of foreclosure, or other proceedings, however, all assessments due from and after the time such institutional lender acquires title to the property would be payable by such lender and, if not paid, would then constitute liens against the Lot

- G. As of 2011, homeowners dues are \$150 annually and are due in the month of February. Thereafter, dues will be determined by the Board of Directors. Dues will be considered delinquent as of March 31 of each year. As of April 1, if the dues remain unpaid, homeowner dues shall increase by \$50 for each 90-day period of time, or portion thereof, that dues remain unpaid. Homeowners will be assessed all legal costs and fees associated with the filing of a lien against the property for unpaid dues. Liens will be placed on the property effective on May 1 of each year for any unpaid dues.

XXVIII

CONSENT TO SPECIAL ASSESSMENTS

If the City of Waukee, Iowa, or any other government unit having jurisdiction thereof, shall incur any expense for the inspection or maintenance of the water impoundments or dams located within Southfork Plat No. 1 and Southfork Plat No. 2 because of the failure of the Association, its successors, grantees, or assignees to perform such inspections or maintenance as is required hereunder, and in the event such expenses are not promptly reimbursed by the Association, its successors, grantees, or assignees in full, upon demand, then the City of Waukee or such other governmental agency may levy a special assessment against each Lot in Southfork Plat No. 1 and Southfork Plat No. 2 for its pro-rata share of such expenses, each Lot to be assessed an identical amount, which assessment shall be spread in the tax books of Dallas County, Iowa, and shall be a lien on each such Lot until paid with the same priority as any other special assessment levied in conformity with applicable law. These expenses shall include costs incurred by the City of Waukee in repair of the public streets or utilities if damaged by failure of any dam or the failure of the Homeowners Association to maintain the dam.

XXVII.

FILING OF SECOND RESTATED AND SUBSTITUTED DECLARATION

This Second Restated and Substituted Declaration shall be filed for record, in full, in the Dallas County, Iowa, Recorder's Office and is intended to be in complete substitution for the Original Declarations and the Restated Declaration.

XXVIII.

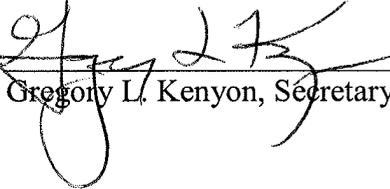
EFFECTIVE DATE

This Second Restated and Substituted Declaration of Residential Covenants, Conditions, and Restriction shall be effective as of the date they are filed with the Dallas County Recorder's Office.

SOUTHFORK HOMEOWNERS ASSOCIATION

By: 

William B. Mueller, President

By: 

Gregory L. Kenyon, Secretary

STATE OF IOWA)
) ss
COUNTY OF POLK)

On this day, April 7, 2013, before me, the undersigned a Notary Public in and for the State of Iowa, personally appeared William B. Mueller, to me personally known, who, being by me duly sworn, did say that he is the President of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said William B. Mueller, as such officer, acknowledged the execution of said instrument to be in the voluntary act and deed of said corporation, by it and by him voluntarily executed

Eugen K. Wislocky
Notary Public in and for the State of Iowa

4/8/13

STATE OF IOWA)
) ss
COUNTY OF POLK)

On this day, April 7, 2013, before me, the undersigned a Notary Public in and for the State of Iowa, personally appeared Gregory L. Kenyon, to me personally known, who, being by me duly sworn, did say that he is the Secretary of said corporation executing the within and foregoing instrument, that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Gregory L. Kenyon, as such officer, acknowledged the execution of said instrument to be in the voluntary act and deed of said corporation, by it and by him voluntarily executed

Eugen K. Wislocky
Notary Public in and for the State of Iowa