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**DECLARATION OF USE RESTRICTIONS, COVENANTS
AND BUILDING SPECIFICATIONS APPLICABLE TO FOX CREEK ESTATES PLAT 10**

This Declaration is dated this 22nd day of June, 2017, and made by **WAUKEE LOTS, LLC**, an Iowa limited liability company ("Declarant").

WHEREAS, Declarant is the owner of certain real property more particularly described as follows (the "Property"):

Lots 1 - 18 and Outlots T, U, V, W, X, Y and Z in Fox Creek Estates Plat 10, an Official Plat, now included in and forming a part of the City of Waukee, Dallas County, Iowa.

WHEREAS, Declarant desires to establish certain use restrictions, covenants and building specifications for the benefit of owners of the Property.

NOW, THEREFORE, Declarant, by the execution and recording of this Declaration, hereby declares that all Property shall be held, occupied, sold and conveyed subject to the covenants, conditions, provisions and restrictions set forth herein.

**ARTICLE I
DEFINITIONS**

- A. "Association" shall mean Fox Creek Estates Maintenance Association, its successors and assigns, a non-profit corporation organized pursuant to Chapter 504 of the Code of Iowa.
- B. "Board of Directors" shall mean the members of the Board of Directors of the Association duly elected in accordance with the Articles of Incorporation and Bylaws of the Association.
- C. "Bylaws" shall mean the Bylaws of the Association adopted by the Board of Directors, as the same may be amended from time to time.
- D. "City" shall mean the city of Waukee, Iowa.
- E. "Declarant" shall mean Waukee Lots, LLC, its successors or designated assigns.

- F. "Declaration" shall mean this Declaration of Use Restrictions, Covenants and Building Specifications Applicable to Fox Creek Estates Plat 10 to which the Property is subject.
- G. "Detention Easement Area" shall mean the area located within Lots 8, 9, 10, 11, 12, 13, 14, 15 and Outlot T as shown and depicted as the 'Detention Easement' on the Plat which contains the Storm Water Detention Facility.
- H. "Lot" shall mean an individual parcel of land within the Property which is platted for a single-family residential dwelling.
- I. "Member" shall mean those persons entitled to membership in the Association as provided in this Declaration.
- J. "Owner" or "Lot Owner" shall mean each person or entity of the record fee title or undivided fee interest in any Lot located within the Property; provided, however, that in the event of the recording of a contract for the sale of a Lot, the contract purchaser shall be deemed the Owner; and provided further that in the event a fee interest of record in hold merely for the security of the performance of an obligation, then the obligor in possession shall be deemed the Owner.
- K. "Outlot" shall mean those unbuildable portions of the Property.
- L. "Plat" shall mean the official subdivision plat of the Property filed in the records of the office of the Recorder of Dallas County, Iowa.
- M. "Property" shall have the meaning set forth on Page 1 hereof.
- N. "Storm Water Detention Facility" shall mean the storm water detention basin and outlet control structures contained within the Detention Easement located upon Lots 8, 9, 10, 11, 12, 13, 14, 15 and Outlot T as shown and depicted on the Plat.

ARTICLE II
GENERAL USE RESTRICTIONS AND BUILDING SPECIFICATIONS

Each Lot shall be held, occupied, sold and conveyed subject to the following general use restrictions and building specifications, as well as those provisions, covenants, conditions and restrictions set forth elsewhere in this Declaration:

A. Outlots. The Outlots are parcels of land set aside for stream buffer zones and surface water drainage within the Property and shall be non-buildable, i.e., no structure, improvement or material shall be constructed, maintained or stored in any way on any Outlot. All Outlots shall be sold and conveyed appurtenant to the Lot as designated below. The Outlots cannot be sold separately and must be owned by the same Owner of the appurtenant Lot:

- | | |
|---------------------|--------------------|
| Lot 15 and Outlot T | Lot 3 and Outlot X |
| Lot 7 and Outlot U | Lot 2 and Outlot Y |
| Lot 8 and Outlot V | Lot 1 and Outlot Z |
| Lot 4 and Outlot W | |

B. Single-family Residence. The use of all Lots shall be limited to single-family residential use and shall be developed with not more than one (1) single-family dwelling each, and may be developed only with such other uses of land or structures customarily incidental and subordinate to the single-family residential use as permitted by City Zoning Ordinance, unless such uses or structures are otherwise regulated or prohibited by this Declaration. No full-time or part-time business activity may be conducted on any Lot or in any building or structure constructed or maintained on any Lot, except to the extent of a home occupation permitted by City Zoning Ordinance, and except that home builders may maintain model homes during construction and Declarant may maintain a sales office during the development and sale of its Lots in the Property as provided in Section Z of this Article.

C. Architectural Standards.

1. Character. The architectural character of any structure shall be in harmony with, and compatible with, other structures in adjoining properties or within the Property.

2. Development Approval of Declarant. Prior to commencement of any construction, an Owner must provide to Declarant architectural plans regarding elevations from all compass directions and a list of materials for all exterior construction, including decking materials.

3. Exterior Foundations. Exposed foundations must be painted to blend with exterior wall finishes or be of stone or brick material.

4. Siding. Siding material variations on the elevation for accent purposes are encouraged, but the overall character and predominant siding must be consistent on all four elevations of the structure. Siding shall not have a reveal of greater than eight inches (8"). Exterior colors shall be earth tones, off-white, or soft, muted tones, which may include muted yellows, greens or blues. No vinyl siding or bright colors of any kind are permitted. Exterior materials may be pre-finished.

5. Roof Materials. The roof of each home shall have a pitch consistent with the architectural style of the home being constructed. Roof material shall be slate, tile, cedar shakes, or composition shingles. Composition shingles shall be architectural grade, minimum twenty-five (25) year warranty. Shingle colors shall be muted earth tones and be compatible with and complimentary to the exterior materials and colors. White and white blend roof shingles are not acceptable. All flashing and vents shall closely match or blend with the surrounding roof area. All vents and other roof penetrations should be located on the rear elevation wherever possible. Gutters should be part of the fascia detailing. Gutters and downspouts shall closely match the colors of the surfaces to which they are attached.

6. Garages. All homes shall have as a minimum an attached three-car garage.

7. Minimum House Sizes. All homes shall contain a minimum square footage of living space exclusive of attached garages, breezeways, porches, and finished basement areas as follows:

a. One-story homes must have a minimum of one thousand eight hundred (1,800) square feet of finished area directly under the roof.

b. One and one-half story homes must have a finished floor area of at least two thousand two hundred (2,200) square feet.

c. Two-story homes must have a finished floor area of at least two thousand four hundred (2,400) square feet.

8. Decks and Porches. Decks attached to the home should be built from materials similar to those used on the home. Unpainted natural wood decks, though appropriate for rear yard spaces, are not acceptable as front entry porches. Entry porches should be designed as integral, yet dominant features that invite entrance to the residence. Columns supporting porch roofs should be massive in scale, (minimum six inches by six inches (6" x 6")). Built up box columns or tapered round columns are encouraged. Handrails shall match the architectural style of the home. No wood steps to front entry porches are permitted.

9. Building Elevation and Drainage Standards. The finished grades for homes constructed on each Lot shall be established to permit positive drainage away from such home.

10. Landscaping. All Lots shall be sodded on the front, side and rear yards as soon as possible upon issuance of a certificate of occupancy and must be completed within nine (9) months from the date of issuance of a building permit.

11. Fences and Hedges. No fences, walls, hedges or barriers shall be permitted upon the Lots or adjoining property lines except as follows:

a. Walls, fences, or hedges along rear property lines and side property lines shall not exceed six feet (6') in height.

b. All fences shall be black in color and constructed of wrought iron or other similar fencing material such as vinyl, which is similar in appearance as wrought iron. Glass fencing may be used around below- ground swimming pools.

c. Notwithstanding anything in this Declaration to the contrary, no Owner shall have the right to erect a fence within or across any easement area shown upon the Plat without the prior consent of the City or the utility company or companies for whose benefit such easement runs. Any fence erected within or across an easement area without such consent may be taken down by the person for whose benefit such easement runs in the exercise of any rights granted by such easement without any obligation to such Lot Owner to restore or repair such fence.

D. Grinder Pumps. A grinder pump unit may be required for individual Lots for sanitary sewer service.

E. Utility Meters. Utility meters shall be hidden architecturally or through the use of remote reading devices, if available.

F. Mailboxes. If required by City Ordinance, Declarant shall install a "cluster-style" mailbox to serve the Lots substantially in accordance with the requirements of such ordinance, which mailbox, upon installation, shall become the property of the United States Postal Service without any further deed or transaction. Thereafter, the United States Postal Service shall maintain, repair and replace said mailbox.

G. Outbuilding. Playhouses, pool house, utility buildings, storage sheds or other similar outbuilding structures shall be permitted, provided that the exterior and the roof of any such structure shall be constructed of the same material, have the same color and appearance as the home on the same Lot and are located only in the rear area of such Lot. All such structures shall be in compliance with City codes and regulations.

H. Utilities. All utilities, including trunk and service lines for telephone, electricity and cable television, shall be constructed and located underground. No private wells or septic systems shall be permitted on any Lot.

I. Security Lighting. Security lighting for driveways, parking and other areas shall be designed, located and directed in a fashion which will avoid direct lighting onto adjoining Lots.

J. Driveways. All homes shall have a driveway not less than 16 feet in width and running from the city street to the garage. All parking and driveway areas shall be hard surfaced, using a suitable thickness of Portland cement, or clay or concrete interlocking pavers installed in a manner suitable for vehicular traffic.

K. Sidewalks. Pursuant to City ordinance, sidewalks are required along public streets. At the time a home is constructed upon a Lot, the Owner of the Lot shall be responsible for construction according to City specifications of the public sidewalk along each street frontage. Declarant has no obligation whatsoever to install sidewalks. An Owner shall install sidewalks within one (1) year from the date of conveyance of the Lot from Declarant to the Lot Owner. If sidewalks have not been installed within the one (1) year timeframe, Declarant shall have the right to install the sidewalks and stabilize the Lot and all costs associated with construction of the sidewalk shall be immediately due from the Lot Owner. If the Lot Owner has not remitted payment within ten (10) days from the date they are invoiced Declarant shall have the right to place a lien on the Lot for such costs plus attorney fees and all other incidental costs it may incur.

L. Garbage Cans and Equipment; Outside Storage; Holiday Displays. No trash receptacles, garbage cans or recycling bins shall be located upon a Lot unless hidden by an attractive screen of suitable height or unless sunken to ground level in a hole lined with permanent cribbing, except that garbage cans, trash sacks, recycling bins, yard refuse bags and other materials for collection by an authorized refuse collector may be placed at the pickup area designated by the City or its authorized refuse collection company on the day before collection and may remain until the evening of the day of the scheduled collection of the same. Items such as compost containers, clotheslines, lawn or garden equipment, building materials, and other similar items shall be placed out of public view. Firewood shall not be stored on the front side of house. Stacked firewood in excess of 4' long by 3' high shall be adequately screened from view and must be stacked in the rear yard and be at least twenty feet (20') from any rear or side yard Lot line. No material of any kind whatsoever may be stored in the front yard or side yard of a house (except that garden hoses may be stored in a side yard adjacent to an outside faucet if neatly coiled or contained on a hose reel), and no material of any kind shall be stored in a rear yard unless appropriately covered or screened from view by neighbors. Only retractable clotheslines are permitted. Such clotheslines shall be located in the rear yard area and not visible from the street. All clotheslines shall be retracted when not in use. No clothing, rugs or other items shall be hung on or from any railing, landscaping or window. All repair of motorcycles, automobiles or other vehicles shall be done out of public view.

M. Tents and Trailers. No tent, trailer, boat, camper, snowmobiles, motorcycles, four or three wheelers, motorhome, or truck rated larger than 3/4 ton or other movable or temporary structure or enclosure shall be maintained or parked on any Lot or street within public view for more than a cumulative of thirty (30) days in any calendar year.

N. Temporary Structures; Mobile Homes. With the exception of temporary sales offices placed by Declarant or its agents, there shall be no occupancy of temporary structures or partially completed structures. No home or other building shall be moved onto any Lot from outside the Property. All homes constructed in the Property shall be constructed on site; and no manufactured or modular housing or mobile homes shall be permitted at any time.

O. Swimming Pools. Below-ground swimming pools are allowed, subject to the area being fenced according to the fencing requirements as provided in Section C(11)(b). No above-ground swimming pools are allowed. Hot tubs shall be skirted in wood.

P. Satellite Dish. Satellite dishes or parabolic devices in excess of twenty inches (20") in diameter used

to receive television or other signals from satellites shall not be permitted. The satellite dishes or parabolic devices 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.

Q. Exterior Animal Houses, Runs and Shelters. Animal runs, animal houses and animal shelters shall not be permitted unless they are located at the rear of the house or garage and extend toward the rear of the Lot from that portion of the house or garage which is closest to the rear Lot line. All animal houses, animal runs and animal shelters shall be screened with landscaping so that they are not visible to neighbors or from the street. Any animal house shall have the same external appearance, color and roof material as the home situated on the Lot. No animal house, animal shelter or animal run shall exceed twenty square feet (20 s.f.) in area. No animal house, animal shelter, or animal run shall be located within twenty feet (20') of any Lot line.

R. Towers and Antennas. No extension tower or antennas of any kind shall be constructed or maintained on any Lot or on the exterior of the home.

S. Noxious Activities, Livestock. No noxious or offensive activity, noise or odors shall be permitted on or to escape from any Lot, nor shall anything be maintained or done thereon which is or may become an annoyance or nuisance, either temporarily or permanently. No animal, livestock, pigs (including potbellied pigs), snakes, reptiles or poultry of any kind shall be raised, bred or kept on a Lot, except that dogs, cats and other small commonly accepted domestic pets may be kept so long as they are not kept, bred or maintained for commercial purposes or sale to the public. All animals shall be tied, kept on a leash, fenced, confined by an underground electrical fence area whose perimeters are at least two feet (2') from all Lot lines, or kept in an animal run at all times.

T. Maintenance of Lot. The Owner or occupant of a Lot, whether vacant or improved, shall keep or cause to be kept all buildings, fences and other structures and all landscaping located on the Lot in good repair and free of debris. The Lot shall be mowed so that the grass or weeds do not exceed six inches (6") in height.

U. Construction and Maintenance. Owners and their builders, contractors and subcontractors are required to maintain and keep the construction site clean during construction of any improvement upon a Lot, which maintenance includes, but is not limited to, weekly cleanup of trash and debris; keeping the street free of debris and mud; installation of silt fences or equivalent erosion control measures on the downhill Lot line(s); compliance with all DNR or City requirements; and restoration of any disturbance caused to the grading or soil stabilization of any Lot in the Property to the original condition of the Lot prior to construction activities. For Lots with new home construction, this restoration must be done within seven (7) days after the home has been completed. All buildings, structures or improvements of any kind must be completed within nine (9) months of the issuance of a building permit for the Lot.

V. Destruction of Property. In the event any home or other structure upon a Lot is damaged, either in whole or in part, by fire or other casualty, the home or other structure shall be rebuilt or remodeled within one hundred twenty (120) days from date of damage or destruction to comply with this Declaration; or in the alternative, if the home or other structure is not to be rebuilt, all remaining portions of the damaged structure, including the foundation and all debris, shall be removed from the Lot within thirty (30) days of damage or destruction and the Lot shall be restored to its natural condition existing prior to the construction of the home or other structure upon the Lot.

W. Sales Office. Declarant reserves the right to maintain one or more Lots as a model or a sales and display office for itself, for its marketing firm, or for any of the home builders who purchase Lots from Declarant; display or post signs of any type or size which are a part of the development and marketing of the Property; and have agents and employee's equipment and material on any Lot used as a model or sales

office.

X. Easements. Easements for the installation and maintenance of sanitary sewers, storm sewers, water mains, overland flowage, storm water detention, stream buffer, snow storage and public utilities and/or private utilities are reserved as shown on the Plat. The Owner or occupant of a Lot shall, at such Owner's or occupant's expense, keep and preserve that portion of the easements within the Lot in good condition at all times, and shall neither erect nor permit erection of any building or structure of any kind within such easement area nor permit any growth of any kind within such easement area nor change the grade of any such easement area in any manner that might interfere in any way with the use, maintenance, repair, restoration or replacement of any of the easements without the prior consent of the City or the utility company or companies for whose benefit such easement runs. Any such building or structure erected, growth permitted, or change in grade made within an easement area without such consent may be removed by the person for whose benefit such easement runs in the exercise of any rights granted by such easement without any obligation to such Lot Owner to restore, repair or replace such building, structure, growth or change in grade. The Owners of Lots 16 and 17 shall be responsible to maintain the rock check dams located within such Owner's Lot in good repair and condition at all times. Maintenance shall include, but is not limited to, periodic inspection to check for erosion around or below the dam, for erosion in the channel, and repair or restoration of any dislodged rocks as necessary to maintain their original configuration.

Y. Surface Water Rights. The topography of the Property is such that surface water may flow from certain Lots onto other Lots. In regard to all matters concerning surface water, each Lot shall be subject to such easements as may exist for 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 law.

Z. Signage. Signage within the Property impacts the aesthetics of the neighborhood and property values. All signage shall meet the following requirements and restrictions:

1. In connection with construction of the home upon a Lot, an Owner may erect project signage, financing signage, contractor, supplier or subcontractor signage, or real estate signage related to the construction, sale and financing of such home. All such signs shall be professionally constructed.
2. Upon completion of construction of the home upon a Lot, signage shall be limited to (i) address signage, (ii) Owner identification signs, (iii) signs advertising real estate for sale ("For Sale Signs"), (iv) signs for garage sales ("Garage Sale Signs"), (v) signs for special events (such as birthdays, graduations, or anniversaries, hereafter "Event Signs"), and (vi) signs for political campaigns and public voting matters ("Political Signs"). For Sale Signs shall only be displayed while the applicable single-family residence is for sale and must be removed the day following the closing of the sale. Garage Sale Signs and Event Signs shall only be displayed one day before the sale or event, during the sale or event and must be removed by the day following the sale or event. No hand painted signs will be allowed. Except for address and Owner identification signs, no signs shall be erected on any building elevation, erected so that it is visible through window or glass openings or, except for vehicles with professionally made business signage on the vehicle, attached to vehicles parked within the Property.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

A. Membership. Every Owner 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. When more than one person holds an interest in any Lot, all such persons shall be Members.

B. Voting. Subject to provisions of Section D of this Article, the Owners shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, 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.

C. 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 shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

D. Board of Directors. The voting Members 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 and business of the Association.

E. Suspension of Voting Rights. The Association shall suspend the voting rights of a Member for any period during which any assessment hereunder against such Owner's 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.

F. Notice of Meetings of Members. Unless the Articles of Incorporation or the Bylaws otherwise provide, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President or Secretary, or the officer or persons calling the meetings, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at such Member's address as it appears on the records of the Association, with postage thereon prepaid.

G. Duration. No dissolution of the Association shall occur without the prior approval and consent of the City.

ARTICLE III
ASSOCIATION MAINTENANCE OBLIGATIONS

A. Maintenance of Storm Water Detention Facility. The Association shall be responsible for maintenance of the Storm Water Detention Facility. Such maintenance obligations shall include, but are not limited to, reconstruction, repair, replacement, inspection, grading, dredging, mowing, replacement of permitted vegetation, removal of trash, litter and debris and any other duties required to be performed for maintenance under any storm water management agreement on file with the City. No Owner shall obstruct or interfere whatever with the duties and responsibilities of the Association to perform its maintenance obligations relating to the Storm Water Detention Facility. Nothing shall be altered in, constructed in, or removed from the Detention Easement Area, except upon written consent of the Board of Directors. An

Owner shall be liable to the Association for the expense of any maintenance, repair, or replacement rendered necessary by any intentional, negligent or careless act by such Owner, or by any family, guest, employee, agent, contractor or lessee of such Owner. Any such expense shall become a special assessment and lien upon the Lot of such Owner and shall become due and payable upon demand.

B. Liability Insurance. The Association shall purchase a master 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 cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, its agents and employees, the Owners and all other persons entitled to use the Storm Water Detention Facility. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to, worker's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors the Owner's right to adjust with the insurance companies all losses under policies purchased by the Association. The policy shall provide that it may not be cancelled or substantially modified without prior written notice to any and all insureds named thereon, including the Association.

C. Assessment for Insurance. The premiums for the insurance hereinabove described shall be paid by the Association and the pro rata cost thereof shall become a part of the annual assessment.

D. Contracts and Agreements. The Board of Directors, in its sole discretion, may or may not enter into any contract, agreement, management contract or employment contract, engage the services of and discharge any manager, 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.

E. Access. The Association and its agents, employees or contractors shall have the right of reasonable access for ingress and egress over, across or through the Property to access the Detention Easement Area for the purpose of performing its inspection, maintenance, repair, replacement, restoration, removal, demolition, grading and dredging obligations relating to the Storm Water Detention Facility as set forth herein.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

A. Purpose of Assessments. The assessments levied by the Association shall be used for those obligations imposed on the Association by the City under any storm water management agreement on file with the City for the inspection, maintenance, repair and replacement of the Storm Water Detention Facility.

B. Creation of Lien and Personal Obligation of Assessments. Each Owner of a Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments, such assessments to be established and collected as provided in this Declaration, (b) special assessments, such assessments to be established and collected as provided in this Declaration, (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Any such assessments, together with late charges, interest and court costs and attorneys' fees incurred to enforce or collect such assessments, shall be both a personal liability of each Owner and an equitable charge and a continuing lien upon the Lot for which the Owner is responsible for such payment. Each Owner shall be personally liable

for assessments coming due while the Owner is the Owner of a Lot and Owner's grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his/her grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid assessments shall not apply to the holder of any first Mortgage or to the holder of any Mortgage securing a loan made by Association, its affiliates, successors, or assigns, who takes title to a Lot through foreclosure, or to any purchaser of a Lot at such foreclosure sale. Any purchaser of a Lot through a foreclosure sale shall thereafter be subject to all future assessments. In the event of co-ownership of any Lot, all of such Co-Owners shall be jointly and severally liable for the entire amount of such assessments.

C. Declarant Exempt from Assessments. Notwithstanding anything herein to the contrary, Declarant shall not be assessed for any Lot owned by Declarant. 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.

D. Computation and Payment of Annual Assessments. Assessments shall be paid in annual installments and on such dates as may be fixed by the Board of Directors. The Board of Directors shall establish the maximum annual assessment to be assessed against each Lot, which assessment may include, but shall not necessarily be limited to, the following:

- (i) Management fees and expenses of administration, including legal and accounting fees;
- (ii) The cost of any policies of insurance purchased for the benefit of all the Owners with respect to the Storm Water Detention Facility and the Association as required or permitted under this Declaration;
- (iii) The cost of inspection and general maintenance of the Storm Water Detention Facility;
- (iv) The establishment of a reasonable reserve fund to cover: (A) repair and replacement of the Storm Water Detention Facility, (B) emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (C) unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors. Notwithstanding the foregoing, Declarant may use any reserve funds, if established, to defray operating costs as it deems appropriate.

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.

E. Date of Commencement of Annual Assessment. 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 prior to or at the closing of sale or transfer of any Lot.

F. 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 maintenance obligations required of the Association in connection with the Storm Water Detention Facility 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.

G. Liens. All assessments levied against any Lot pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot in favor of the Association. Such liens shall be superior to all other liens and encumbrances on such Lot except only for (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first mortgage and all amounts advanced pursuant to any first mortgage and secured thereby in accordance with the terms of such instrument.

H. Effect of Nonpayment; Remedies of the Association. Any assessment levied against a Lot pursuant to this Declaration which is not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days after the due date shall incur a late charge in an amount as may be determined by the Board of Directors from time to time and shall also commence to accrue (as of the initial date of delinquency, including any grace period) simple interest at the rate of eighteen percent (18%) per annum. A lien and equitable charge as herein provided for each assessment shall attach simultaneously as the same shall become due and payable, and if an installment of the assessment for such year has not been paid within thirty (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full. The continuing lien and equitable charge of such assessment shall include the late charge established by the Association, interest on the principal amount due at the rate of eighteen percent (18%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law.

I. Assessment Certificate. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer or agent 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.

ARTICLE IV **GENERAL PROVISIONS**

A. Rules and Regulations. The Association shall have the authority to amend and adopt rules and regulations governing the Storm Water Detention Facility and such rules shall be observed and obeyed by the Owners, their guests, lessees, assigns, and licensees. Such rules after being properly adopted at a meeting duly called for such purpose shall have the same force and effect as if contained in this Declaration.

B. No Waiver. Failure of the Association or any Owner to enforce any provision, covenant, condition or restriction of this Declaration, the Articles of Incorporation or Bylaws of the Association, or the rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to enforce the same thereafter. No right, claim or action shall accrue to and no action or claim shall be brought or maintained by anyone against the Association, Declarant or any officer, employee or agent thereof on account of any action or inaction under this Declaration.

C. Legal Action. Declarant, the Association, the Owners and all parties claiming under them, and the City (if it so elects by approval of its City Council) may bring an action in any court of competent jurisdiction to enforce the provisions, covenants, conditions and restrictions contained herein, and to enjoin their violation, mandate their compliance, or to recover damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity. If any violation of any of the provisions, covenants, conditions and restrictions of this Declaration is established, then the person or persons found violating such provision, covenants, conditions and restriction, in addition to any other applicable remedy

or relief, shall be liable to the person bringing such action for the reasonable attorney's fees and expenses incurred by the person bringing such action.

D. Severability. In the event that anyone or more of the terms or conditions of this Declaration shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall in no way affect, modify, change, abrogate or nullify any of the remaining provisions, covenants, conditions or restrictions not so expressly held to be void and the remaining parts of this Declaration shall remain in full force and effect.

E. Conflict with Governmental Regulations. The Property is subject to any and all regulations of the City and any other governmental entities having jurisdiction, including, but not limited to, zoning ordinances, subdivision ordinances, building codes and other such regulations. Whenever there is a conflict between the provisions of this Declaration and the ordinances, statutes or regulations of the City, County, State, Federal or other applicable governmental entity having jurisdiction over the Property, that provision which is most restrictive shall be binding.

E. Assignment of Declarant's Rights. Declarant shall have the right to assign all of its rights and obligations as Declarant under this Declaration to any person, corporation or other entity. The assignee of any such assignment shall be responsible for Declarant's duties and obligations under this Declaration. Declarant shall make such assignment by written instrument recorded in the office of the Recorder of Dallas County, Iowa.

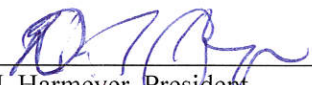
F. Amendment. This Declaration may be amended or changed by an instrument recorded in the office of the Recorder of Dallas County, Iowa, signed or approved by a majority of the then Owners; provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Notwithstanding the foregoing, this Declaration may be amended by Declarant without approval by the other Owners so long as Declarant has any ownership interest in any Lot.

G. Duration. The easements granted herein shall be perpetual in nature. All covenants, conditions, restrictions and reservations created by this Declaration shall run with the land and shall be binding upon all parties claiming under them for the maximum period allowed by law, subject to the right of Owners under Section 614.24 of the Iowa Code to file a verified claim in the office of the County Recorder to extend the effectiveness of these covenants for successive periods of twenty-one (21) years each on or before the twenty-first anniversary of the filing of this Declaration and prior to the twenty-first anniversary of the filing of the last verified claim.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the date first hereinabove written.

WAUKEE LOTS, LLC,
an Iowa limited liability company


By: Vista Real Estate and Investment Corporation,
an Iowa corporation, its Manager

By: 
David J. Harmeyer, President

STATE OF IOWA, COUNTY OF POLK:

This record was acknowledged before me on June 22, 2017, by David J. Harmeyer, President of Vista Real Estate and Investment Corporation, Manager of Waukee Lots, LLC.



By: 
Notary Public

