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DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

ENV.

Preparer and Return to: Thomas A. Lawler, Lawler & Swanson, P.L.C., 601 Coates Street, P.O. Box 280, Parkersburg, IA 50665
Telephone: (319) 346-2650
Taxpayer Information: David and Marilyn Dighton, 3342 120th Avenue, Coggon, Iowa 52218

IOWA BARN FOUNDATION EASEMENT

This easement is granted by David L. Dighton and Marilyn J. Dighton hereinafter referred to as Grantors, to Iowa Barn Foundation, an Iowa non-profit corporation, exempt from taxation under Internal Revenue Code Section 501(c)(3), hereinafter referred to as Grantee, for the purpose of encouraging the preservation of barns and other agricultural buildings as important culturally, historically, and architecturally, subject to the following terms and conditions:

1. Property Subject to Easement. The property upon which this easement is granted (Easement Structure) and to which the easement applies is located on the following described real estate, to-wit:

   Southwest Quarter of the Southwest Quarter of the Northwest Quarter (SW¼ SW¼ NW¼) of Section Thirty-three (33), Township Eighty-seven (87) North, Range Six (6) West of the 5th P.M., Delaware County, Iowa;

   including reasonable access to the easement structure from a public way (Easement Access), and a reasonable area around the easement structure (Appurtenant Easement) as necessary to meet the terms and conditions of this easement.

   The Easement Structure, Easement Access, and Appurtenant Easement shall, when the reference is to all three, be referred to as Easement Property.

2. Duration of this Easement. This easement shall begin the 1st day of July, 2005, and continue thereafter perpetually.

3. Scope of Easement. The Grantors shall by this easement, during the duration of this easement, permit the following without a charge, as defined at Iowa Code Section 461C.2(1), in and on the Easement Property:

   A. Public access shall be encouraged by the Grantors and must be permitted a minimum of two (2) twelve (12) hour days per calendar year, with the days to be between May 1 and October 31 and on a weekend if reasonably possible. The dates of these public access days shall be given to the Grantee in writing and furnished to the media in the area of the Easement Property, both within a reasonable time prior to the day of public access.

B. Unlimited photography, videotaping, and/or other imaging of the easement structure shall be permitted, so long as it does not unreasonably interfere with the Grantors' use of the Easement Property and adjoining property.

C. The Easement Structure shall not be used for any purpose other than:

1. Farming as defined at Iowa Code Section 9H.1(11), or

2. In conjunction with the production of agricultural commodities commonly produced in the locality in their unmanufactured or unprocessed states, including the storage of such commodities and the facilities, production inputs, animals, machinery and equipment commonly employed in the production of such commodities. The storage of commodities held for sale on the premises, and the sale of such commodities, are considered farming so long as such storage and sale are incidental to the production of the commodities on the farm receiving a matching grant from the Iowa Barn Foundation.

D. A plaque shall be affixed to the Easement Structure, which plaque identifies the project as an Iowa Barn Foundation project, and includes the name(s) of the Grantors, the name(s) of the donors for the project, if applicable, and the Iowa Barn Foundation's involvement. Location and maintenance of the plaque will be by the Grantee.

E. Grantors shall cooperate with and participate in nominating the Easement Structure for inclusion on the National Register of Historic Places, including allowing a plaque on the Easement Structure showing its inclusion on the Registry.

4. Assistance by Grantee. Grantee shall furnish to Grantors, in a manner agreed to by the Grantors and Grantee, funds in an amount not to exceed U.S. $20,000 (Easement Assistance), which funds shall be used to rehabilitate (Easement Rehabilitation) the Easement Structure according to the plans and specifications approved by the Grantors and Grantee. The condition of the Easement Structure, after the Easement Rehabilitation is complete, shall be referred to as its Easement Condition.

5. Repair and Maintenance of Easement Structure. Grantors shall, at Grantors' expense, repair and maintain the Easement Structure in its Easement Condition during the duration of this easement, ordinary wear and tear excepted.

6. Casualty Insurance. Grantors, at Grantors' expense, shall maintain, beginning when the Easement Rehabilitation begins, insurance, issued by a company authorized to issue insurance policies in Iowa, against loss by fire, tornado, snow load, wind, and any other hazards and contingencies which the Grantee may reasonably require on the Easement Structure in an amount not less than the full insurable value of the Easement Structure. This insurance shall have a clause attached to it making its benefits for the benefit of the Grantors and Grantee as follows: Any insurance payments collected shall be payable to the Grantors and Grantee and shall be first used to restore the Easement Structure to its Easement Condition, unless the Grantors and Grantee agree to not so use such payments. If the payments are not used to repair the Easement Structure, Grantee shall receive so much of the insurance payments as equals the Easement Assistance, except that this amount shall be reduced by 10% for each year which has elapsed after the Easement Rehabilitation begins and before the date of the insurance payment. Grantors shall annually furnish Grantee proof of the issuance of this insurance in compliance with the terms of this paragraph.

7. Liability Insurance. Grantors shall at all times, during the duration of this easement, maintain public liability insurance protecting the Grantors in an amount not less than $1,000,000 per person, and $1,000,000 per incident listing Grantee as an additional insured.

8. Grantor Owns Fee. Grantors covenant that Grantors own the entire fee simple interest in the Easement Property and warrant to defend the same against all claims made against the Easement Property. All holders of liens, encumbrances or interest, including tenants, are agreeing to subordinate their interest to the interest of Grantee.

9. Prohibited Acts. Grantors will not perform any act on or affecting the Easement Structure that is inconsistent with preserving the Easement Structure as important culturally, historically, and architecturally, nor shall they knowing allow another to perform any such act.

10. Responsibilities of Grantors and Grantee not Affected. Except as specified herein, this easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantors as owner of the Easement Property. Among other things, this shall apply to:

    A. Taxes. Grantors shall continue to be solely responsible for payment of all taxes and assessments levied against the Easement Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Easement Property, or any portion thereof, Grantor will reimburse Grantee for such taxes or assessments.

    B. Upkeep and Maintenance. Grantors shall continue to be solely responsible for the upkeep and maintenance of the Easement Property. Grantees shall have no obligation of upkeep or maintenance.

    C. Liability and Indemnification. If Grantee is ever required by a Court to pay damages resulting from personal injury or property damage occurring on the Easement Property or on account of this easement, Grantors shall indemnify and reimburse Grantee for these payments, as well as for reasonable attorney's fees and other expenses of defending itself, unless Grantee or any of its agents have committed a deliberate act that is determined by a Court to be the sole cause of the injury or damage.

11. Enforcement. Grantee shall have the right to prevent and correct violations of the terms of this easement. With reasonable notice to the Grantors, the Grantee may enter the Easement Property for the purpose of determining if there are any violations. If Grantee finds what Grantee thinks is a violation, Grantee may at Grantee's discretion take appropriate legal action. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and architectural importance of the Easement Property, the Grantee shall give the Grantors written notice of the violation and allow thirty (30) days to correct the violation before filing any legal action. If a court, having jurisdiction, determines that a violation exists or has occurred, Grantee may obtain an injunction to stop the violation, temporarily or permanently. A court may also issue an injunction requiring the Grantors to restore the Easement Property to its Easement Condition. In any case where a court finds that a violation has occurred, the Grantors shall reimburse the Grantee for all the Grantee's expenses incurred in stopping, preventing and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.

12. Transfer of Easement. The Grantee has the right to transfer this easement to any public agency or private non-profit organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, if the agency or organization expressly agrees to assume the responsibility imposed on the Grantee by this easement. If the Grantee ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, a court with jurisdiction

shall transfer this easement to another qualified organization having similar purposes that agrees to assume the responsibility of the Grantee imposed by this deed.

13. Transfer of Property. Any time the Easement Property, or any interest therein, is transferred by the Grantors, the Grantors shall notify the Grantee in writing prior to the transfer of the property, and any document of transfer shall expressly refer to this easement and be subject to the terms and conditions of this easement. This easement shall run with the land and shall be binding upon the Grantors, their successors, assigns and transferees.

14. Amendment of Easement. This easement may be amended only with the written consent of Grantee and Grantors. Any such amendment shall be consistent with the purpose of this easement.

15. Termination of Easement. If a court determines that conditions on or surrounding the Easement Property change so that it becomes impossible to fulfill the purpose of this easement, a court with jurisdiction may, at the joint request of both the Grantors and Grantee, terminate this easement. If condemnation of a part or all of the Easement Property by public authority renders it impossible to fulfill the purposes of this easement, the easement may be terminated through condemnation proceedings. If the easement is terminated and the property is sold or taken for public use, then, as specified in Section 1.170A-14(g)(6) of the Internal Revenue Service regulations, the Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award equal to the ratio of the appraised value of this easement to the unrestricted fair market value of the property. The Grantee shall use the proceeds consistent with the purposes of this easement.

16. Interpretation. This easement shall be interpreted under the laws of the State of Iowa, resolving any ambiguities and questions so as to give maximum effect to the purpose of this easement.

17. Grantors' Environmental Warranty. Grantors warrant to the best of Grantors' knowledge that any handling, transportation, storage, treatment, or use of toxic or hazardous substances that has occurred on the Easement Property to date has been in compliance with all applicable federal, state, and local codes, rules, and regulations and that to Grantors' best knowledge, no leak, spill, release, discharge, emission, or disposal of toxic or hazardous substances has occurred on the Easement Property to date, and the soil, groundwater, and soil vapor on or under the Easement Property is free of toxic or hazardous substances, except for chemicals (including, without limitation, fertilizer, herbicides, insecticides) applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical. Grantors agree to hold Grantee harmless against liability for removing solid waste disposal sites existing on the Easement Property.

    Grantors shall comply with all federal, state, and local environmental laws concerning application of chemicals (including, without limitation, herbicides and insecticides) and fertilizers. Grantors agree any chemicals used shall be applied at levels not to exceed the manufacturer's recommendation. Grantors further agree no chemicals will be stored on the Easement Property for more than one year and they will be in clearly marked, tightly closed containers. No chemicals or chemical containers will be disposed of on the Easement Property.

18. Subsequent Liens on Property. No provisions of this easement shall be construed as impairing the ability of Grantors to use this property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such as borrowing shall be subordinate to this easement.

19. Acceptance. As shown by the signature of its President, the Grantee hereby accepts without reservation the rights and responsibilities of this easement.

David L. Dighton
Grantor

Marilyn J. Dighton
Grantor

IOWA BARN FOUNDATION

By: _____
Jacqueline Schmeal, President

OFFICIAL SEAL
DOROTHY M. VISCONTE
NOTARY PUBLIC
STATE OF NEW MEXICO
MY COMMISSION EXPIRES 11/15/2006

STATE OF IOWA)
(ss:
COUNTY OF Linn)

On this 21 day of July, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared David L. Dighton and Marilyn J. Dighton, to me known to be the identical person named in and who executed the within and foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

Laura A. Fuller
Notary Public in and for said County and State

STATE OF Iowa)
(ss:
COUNTY OF Linn)

LAURA A. FULLER
Commission Number 729115
My Commission Expires
6/23/07

On this 21 day of July, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jacqueline Schmeal, President of the Iowa Barn Foundation, to me personally known, who, being by me duly sworn, did say that she 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 President as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by her voluntarily executed.

Laura A. Fuller
Notary Public in and for said County and State

LAURA A. FULLER
Commission Number 729115
My Commission Expires
6/23/07