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MADISON COUNTY IOWA

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**DECLARATION OF PRIVATE INGRESS/EGRESS AND ACCESS EASEMENT**

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**Declarant:**

Timothy A. Mohs & Jacque S. Mohs  
*1640 Hwy 169 Winterset, Ia 50273*

**Legal Description:**

See Page 2.

**Document or instrument number of previously recorded documents:** N/A

**DECLARATION OF PRIVATE INGRESS/EGRESS AND ACCESS EASEMENT**

This Declaration of Private Ingress/Egress and Access Easement (this "Declaration") is made of this 23<sup>rd</sup> day of October, 2019, by Timothy A. Mohs and Jacque S. Mohs ("Declarant").

**RECITALS**

A. Declarant is the owner of real property in Madison County, Iowa, legally described as follows:

Parcel "P" in the Northwest Quarter, the Northeast Quarter, and the Southwest Quarter of Section 6, Township 76 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa, as shown in the Amended Plat of Survey filed February 21, 2017, in Book 2017 Page 577 of the Madison County, Iowa records ("Parcel P").

B. Steve E. Wilson II and Paula S. Wilson are the owners of the real property in Madison County, Iowa, adjacent to the Declarant's property described above, and legally described as follows:

Lot 2 of Cider Ridge Subdivision, located in the Southwest Fractional Quarter of the Northwest Quarter (SW ¼ NW ¼ ) and in the northwest Fractional Quarter of the Southwest Quarter (NW ¼ SW ¼ ) of Section 6, Township 76 North, Range 27 West of the 5<sup>th</sup> P.M., Madison County, Iowa ("Lot 2").

C. Declarant desires to establish a private ingress/egress and access easement over Parcel "P" for the benefit of the current and future owners of Lot 2.

**DECLARATION**

NOW, THEREFORE, in consideration of Two Thousand Five Hundred Dollars (\$2,500.00) and other good and valuable consideration paid by the Owner of Lot 2 to the Declarant, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby declares as follows:

1. **DEFINITIONS.** All capitalized terms used in this Declaration shall, unless otherwise defined elsewhere in this Declaration, have the following meanings:

"Benefitted Property" means Lot 2, as described above.

"Owner(s)" means the record titleholder(s) of any portion of the property listed above.

"Permittees" means any tenant(s) or occupant(s), guests, vendors, licensees, invitees, customers, contractors and agents of an Owner.

2. **GRANT OF PRIVATE INGRESS/EGRESS AND ACCESS EASEMENT.** Declarant hereby establishes a perpetual, non-exclusive private easement for ingress/egress and access for the purposes of ingress, egress and access to and from all public rights of way over, under, through and across the following described real estate for the benefit of the Benefitted Property:

**A 40.00 FEET WIDE PRIVATE INGRESS-EGRESS EASEMENT OVER AND ACROSS A PORTION OF PARCEL "P" IN THE SOUTHWEST FRACTIONAL QUARTER OF THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 76 NORTH, RANGE 27 WEST OF THE 5<sup>TH</sup> P.M., MADISON COUNTY IOWA AS SHOWN IN BOOK 2017 AT**

PAGE 577 IN THE OFFICE OF THE MADISON COUNTY RECORDER AND DESCRIBED AS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL "P", SAID CORNER ALSO BEING THE NORTHWEST CORNER OF PARCEL "Q" AS SHOWN IN BOOK 2017 AT PAGE 2695 IN THE OFFICE OF THE MADISON COUNTY RECORDER; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID PARCEL "P" TO THE NORTHWEST CORNER OF SAID PARCEL "P" AND TO THE SOUTHWEST CORNER OF PARCEL "N" AS SHOWN IN BOOK 2014 AT PAGE 496 IN THE OFFICE OF THE MADISON COUNTY RECORDER; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID PARCEL "P" AND ALONG THE SOUTHERLY LINE OF SAID PARCEL "N" TO THE SOUTHEAST CORNER OF SAID PARCEL "N" THENCE SOUTHERLY IN A STRAIGHT LINE TO THE NORTHEAST CORNER OF PARCEL "R" AS SHOWN IN BOOK 2017 AT PAGE 2695 IN THE OFFICE OF THE MADISON COUNTY RECORDER; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID PARCEL "P" AND ALONG THE NORTHERLY LINE OF SAID PARCELS "R" AND "Q" TO THE POINT OF BEGINNING.

(hereinafter "Easement Area").

3. **MAINTENANCE**: The Owner of the Easement Area shall keep and preserve the Easement Area in good repair and condition at all times, including but not limited to removing snow, ice and other debris timely as necessary. Notwithstanding the preceding statements, the Owner of Lot 2 and all other Owners that access the Easement Area, may be required, from time to time, to reimburse the Owner of the Easement Area for costs and expenses incurred in the maintenance or repair of the Easement Area. Any said reimbursements shall be equitable among all Owners that access the Easement Area. The Owner of the Easement Area shall provide, upon reasonable request, the invoices and other documentation detailing the costs of the maintenance or repairs. Upon the execution of this Declaration, the Owner of Lot 2 shall provide to the Owner of the Easement Area One Thousand Dollars (\$1,000.00) for the cost of gravel that was necessary at this time for the Easement Area.
4. **ERECTION OF STRUCTURES PROHIBITED**. The Owner of Lot 2 shall not erect any fence or other structure under, over, on through, across or within the Easement Area without obtaining the prior written consent of the Owner of the Easement Area, nor shall the Owner of Lot 2 cause or permit any obstruction, planting or other material, including but not limited to vehicle parking, to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the Owner of the Easement Area.
5. **CHANGE IN GRADE PROHIBITED**. The Owner of Lot 2 and its successors and assigns shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the Owner of the Easement Area.
6. **RIGHT OF ACCESS**. The Owner of Lot 2, its permittees, invitees and licensees, shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area. The Owner of Lot 2 shall have the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area that interferes with the Easement Area in any way. The Owner of Lot 2 shall not cause any waste collector to access the Easement Area for the purposes of collecting waste or garbage from Lot 2. Any waste or garbage to be collected from Lot 2 shall be placed along Highway 169 for such purposes.

7. **EASEMENT BENEFIT.** This Easement shall be for the benefit of the Owner of Lot 2, its permittees, invitees and licensees.
8. **RESTORATION OF PROPERTY.** The Owner of the Easement Area shall restore the Easement Area after exercising their rights hereunder to a condition substantially similar to that prior to any construction, reconstruction, replacement, repair or maintenance thereof.
9. **ENFORCEMENT.** The Owner of Lot 2 may enforce this Declaration against the Owner of the Easement Area by seeking injunctive relief, specific performance or any other remedy available at law or in equity. In the event of litigation to enforce or interpret the terms of this Declaration, the prevailing party shall be entitled to recover its costs of litigation, including, without limitation, reasonable attorney's fees.
10. **NO MERGER.** It is expressly understood and agreed that the easements, rights and privileges granted and conveyed herein shall never be extinguished by reason of the fact that the legal or beneficial title to the entirety of the Property (or any interest therein or part thereof), as the case may be, is or may be vested in the same person or entity.
11. **BINDING EFFECT; NO PUBLIC GRANT.** This Declaration shall be perpetual, permanent and shall run with the land, and shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns. The easement rights and dedications created hereby are not for the benefit of the public generally and nothing herein shall be construed as a dedication to the public.
12. **AMENDMENT.** This Declaration may only be amended by written agreement signed by all Owners of record.
13. **WAIVER.** Any failure, forbearance, delay or omission to exercise any rights under this Declaration in the event of a breach of any term of this Declaration shall not be deemed to be a waiver by any party of such term or any subsequent breach of the same or any other term, or of any rights of any party under the terms of this Declaration.
14. **SEVERABILITY.** If any provision of this Declaration, or the application of it to any circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provision to other circumstances than those to which it is found to be invalid, as the case may be, shall not be affected.

Words and phrases herein including acknowledgment hereof shall be constructed as in the singular or plural number, and as masculine, feminine, or neuter gender, according to the context.

IN WITNESS WHEREOF, this Declaration has been made effective as of the date first above written.

Timothy A. Mohs

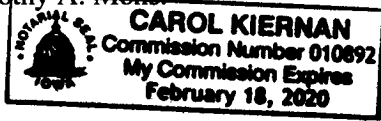
Timothy A. Mohs

Jacque S. Mohs

Jacque S. Mohs

STATE OF Iowa )  
 ) SS:  
COUNTY OF Madison )

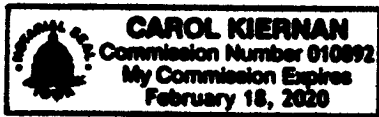
This record was acknowledged before me on this 23 day of October, 2019 by Timothy A. Mohs.



Carol Kiernan  
Notary Public in and for Said State

STATE OF Iowa )  
 ) SS:  
COUNTY OF MADISON )

This record was acknowledged before me on this 23 day of October, 2019 by Jacque S. Mohs.



Carol Kiernan  
Notary Public in and for Said State