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Date 1/18/2011 Time 10:32 AM

Rec Amt \$19.00

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

Return To: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072

Prepared By: Samuel H. Braland, P. O. Box 370, Earlham, Iowa 50072 (515) 758-2267

FENCE AGREEMENT

THIS FENCE AGREEMENT is made and entered into by and between Carl Tessmer and Sara Tessmer, husband and wife, herein referred to as "Tessmers"; and Dave Elgin and Gayle Elgin, husband and wife, herein referred to as "Elgins":

WITNESSETH:

Tessmers are the owners of the following described real estate which is referred to herein as the "Tessmer Property", to-wit:

The Southeast Quarter of the Northwest Quarter (SE¹/₄ NW¹/₄) of Section 22, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa.

Elgins are the owners of the following described real estate which is referred to herein as the "Elgin Property", to-wit:

Commencing at the Northeast Corner of the Southwest Quarter (SW¹/₄) of Section 22, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa, running thence South 32 rods and 8 links, thence West 66 rods, thence North 32 rods and 8 links, thence East 66 rods to the place of beginning AND Lot 8 of the Southwest Quarter (SW¹/₄) of said Section 22.

Tessmers and Elgins are adjoining property owners and share a common boundary line. The South boundary line of the Tessmer Property is also the North boundary line of a substantial portion of the Elgin Property. Tessmers and Elgins for themselves, their heirs, assigns, and successors in interest desire to provide for the ownership, maintenance and replacement of a partition fence situated on the common boundary line between the Tessmer Property and the Elgin Property.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Tessmers and Elgins do hereby agree as follows:

1. Tessmers, at their expense, shall erect a partition fence on or along the entire South boundary line of the Tessmer Property. Said South boundary line of the Tessmer Property is also the North boundary line of the following described portion of the Elgin Property, to-wit:

Commencing at the Northeast Corner of the Southwest Quarter (SW $\frac{1}{4}$) of Section 22, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa, running thence South 32 rods and 8 links, thence West 66 rods, thence North 32 rods and 8 links, thence East 66 rods to the place of beginning AND the East 231 feet of Lot 8 in the Southwest Quarter (SW $\frac{1}{4}$) of said Section 22.

It is expressly acknowledged and understood by the parties that due to the topographical characteristics of the real estate along the common boundary line of the Elgin Property and Tessmer Property the partition fence may not be constructed precisely on the boundary line. In that event, Tessmers and Elgins expressly consent and agree to the construction of the fence at a practical location near the common boundary line, but further expressly agree that the common boundary line at all times shall remain as is and shall not be relocated due to the off-line construction of the partition fence.

2. Tessmers and their successors in interest shall own the fence and at their expense maintain, repair, and if necessary replace it.

3. Until amended or released, this agreement shall constitute a permanent and binding covenant which shall run with the ownership of the Tessmer Property and the Elgin Property, and shall bind the successors in interest of the parties.

4. This agreement may be amended or released at any time by appropriate agreement entered into for that purpose between Tessmers and Elgins, their heirs, successors in interest, and assigns. The agreement shall be duly executed, acknowledged, and recorded in the Office of the Recorder of Madison County, Iowa.

IN WITNESS WHEREOF, Tessmers and Elgins have executed this agreement the day and year above written.

Carl Tessmer
Carl Tessmer

Dave Elgin
Dave Elgin

Sara Tessmer
Sara Tessmer

Gayle Elgin
Gayle Elgin

STATE OF IOWA)
) SS
MADISON COUNTY)

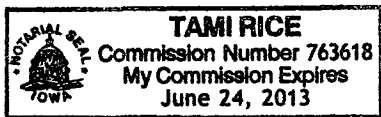
This instrument was acknowledged before me on January 11, 2011, by Carl Tessmer and Sara Tessmer, husband and wife.



Tami Rice
Notary Public in and for the State of Iowa.

STATE OF IOWA)
) SS
MADISON COUNTY)

This instrument was acknowledged before me on January 11, 2011, by Dave Elgin and Gayle Elgin, husband and wife.



Tami Rice
Notary Public in and for the State of Iowa.