

## DECLARATION OF WELL EASEMENT

This Declaration of Well Easement is made this \_\_\_\_ day of \_\_\_\_\_, 2021, by Barbara J. Holtzman, whose address is 67421 M-43 Highway, South Haven, Michigan 49090, as the Declarant, hereby makes the declarations set forth in this Declaration.

### RECITALS

- A. Declarant owns parcels of land located in Township of Geneva, County of Van Buren, Michigan, which are legally described on **Exhibit 1** attached hereto ("Burdened Parcels").
- B. Declarant owns a parcel of land located in Township of Geneva, County of Van Buren, Michigan, which is legally described on **Exhibit 2** attached hereto ("Benefitted Parcel").
- C. Declarant wishes to provide the Benefitted Parcel with easement rights for use and access to the well located on the Burdened Parcel.

NOW, THEREFORE, the parties agree as follows:

1. **Grant of Easement.** For the sum of One Dollar (\$1.00) Declarant hereby grants to Benefitted Parcel a non-exclusive, perpetual easement appurtenant ("Easement") over and across the portion of the Burdened Parcel legally described in **Exhibit 3** ("Easement Premises") attached hereto for use and access to a well to service the Benefitted Parcel. The owner of the Burdened Parcel may relocate the Easement Premises within the Burdened Parcel provided that not impair or interrupt the use of the Easement.

2. **Use of Easement.** The owners of Benefitted Parcel and their tenants and invitees shall have the right to use the Easement granted by Declarant to use and access the well that services the Benefitted Parcel from the Burdened Parcel.

3. **Non-exclusive.** The easement rights granted herein are not exclusive. The owner of the Burdened Parcel shall have the right to use and to grant to others the non-exclusive right to use that portion of the Burdened Parcel subject to the Easement, provided that such use does not interfere with the easement rights granted herein.

4. **Maintenance and Repair.** The owner of Benefited Parcel, its successors and/or assigns, shall maintain the well and water line within the Easement Premises in a safe and attractive condition, and may enter upon the Burdened Parcel outside the Easement Premises as reasonably necessary for such work, and shall restore the Burdened Parcel to previous condition immediately upon the completion of such work. All such work shall be performed prudently and expeditiously, and shall be paid by the owner of the Benefited Parcel.

5 **Insurance and Indemnity.** The owner of Benefitted Parcel, and its tenants and invitees shall use the Easement Premises at their sole risk and they shall maintain liability insurance coverage to protect against any claims arising from the use of the Easement Premises or the use, maintenance, repair or replacement of improvements within, under or on the Easement Premises or the failure of the owner of Benefitted Parcel to maintain, repair or replace them, and the owner of the Burdened Parcel may, if it wishes, insure the improvements themselves. The owner of Benefitted Parcel shall indemnify and hold the owners of Burdened Parcel harmless against any and all claims, debts, causes of action or judgments for any damage to the improvements, any contents thereof, or other property and/or injury to any person which may arise out of the use of the Easement Premises or the use, maintenance, repair or replacement of any improvements within, under or on the Easement Premises or the failure to maintain, repair or replace such improvements.

6. **Run with the Land.** All provisions of this Declaration of Well Easement, for the well servicing Benefitted Parcel, including the benefits and burdens, shall run with the land and be binding on all owners and all heirs, successors, assignees, tenants and personal representatives of the owners of either Parcel.

7. **Interpretation.** The rule of strict construction does not apply to this Declaration of Well Easement. It shall be given a reasonable and liberal construction so that the intention of the owners of the Parcels to retain a useable right of enjoyment is carried out.

8. **Amendment.** This Declaration of Well Easement may be amended, but only with the written consent of all of the owners of the property described in Exhibits 1 and 2 attached hereto.

**This instrument is exempt from County Real Estate Transfer Tax pursuant to MCL 207.505(a) and from State Real Estate Transfer Tax pursuant to MCL 207.526(a).**

The undersigned have executed this Declaration of Well Easement on the day and year first written above.

Declarant:

By \_\_\_\_\_  
Barbara J. Holtzman

STATE OF MICHIGAN                    )  
  ) ss.  
COUNTY OF OTTAWA                    )

The foregoing instrument was acknowledged before me in \_\_\_\_\_ County, Michigan, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Barbara J. Holtzman.

Notary Public, Ottawa Co., MI  
Acting in the County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

This instrument prepared by:  
Randall S. Schipper  
Cunningham Dalman, P.C.  
Attorneys at Law  
321 Settlers Road  
P.O. Box 1767  
Holland, MI 49422  
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**Exhibit 1**  
(Burdened Parcels)

The South Half of the Southeast Quarter of the Northeast Quarter. ALSO, all of the North Half of the Southeast Quarter lying Northeasterly of M-43 Highway. EXCEPT: Commencing at the Center of Section 30, Town 1 South, Range 16 West; thence North 89° 48' 36" East on the East and West Quarter line, 303.90 feet to center line of M-43 Highway and the place of beginning; thence continuing North 89° 48' 36" East on said Quarter line, 286.00 feet; thence South 31° 50' 24" East, 88.00 feet; thence South 37° 50' 41" West, 189.74 feet to the center line of M-43 Highway; thence North 44° 00' 22" West on same 310.93 feet to place of beginning, ALSO EXCEPT Commencing at the Center of Section 30, Town 1 South, Range 16 West; thence North 89° 48' 36" East on the East and West Quarter line, 589.90 feet to the place of beginning of this description; thence continue on said Quarter line North 89° 48' 36" East 437.65 feet; thence South 02° 59' 31" West 296.11 feet; thence South 16° 51' 23" West 349.89 feet to the center line of M-43 Highway; thence North 44° 00' 22" West on same, 562.40 feet; thence North 37° 50' 41" E 189.74 feet; thence North 31° 50' 24" West 88.00 feet to the place of beginning.

And Beginning at the West Quarter post of Section 29, Town 1 South, Range 16 West; Thence North on the West Line of said Section 164.64 feet to the North line of the South Half of the South Half of the Southwest Quarter of the Northwest Quarter; Thence South 89° 24' 48" East on the same 1317.00 feet to the East line of the Southwest Quarter of the Northwest Quarter; Thence South 00° 06' 01" East on the same 164.49 feet to the East and West Quarter Line; Thence South 89° 18' 12" West on the same 1317.29 feet to the Place of Beginning.

**Exhibit 2**  
(Benefitted Parcel)

Commencing at the Center of Section 30, Town 1 South, Range 16 West; thence North 89° 48' 36" East on the East and West Quarter line, 589.90 feet to the place of beginning of this description; thence continue on said Quarter line North 89° 48' 36" East 437.65 feet; thence South 02° 59' 31" West 296.11 feet; thence South 16° 51' 23" West 349.89 feet to the center line of M-43 Highway; thence North 44° 00' 22" West on same, 562.40 feet; thence North 37° 50' 41" East 189.74 feet; thence North 31° 50' 24" West 88.00 feet to the place of beginning.

**Exhibit 3**  
(Easement Premises)

A 20 ft. wide strip, the centerline of which is described as follows: Commencing at the Center of Section 30, Town 1 South, Range 16 West; thence North  $89^{\circ} 48' 36''$  East on the East and West Quarter line, 1027.55 feet; Thence South  $02^{\circ} 59' 31''$  West 10 feet to the place of beginning of this description; Thence East parallel with the East and West Quarter line of said section to a point 43 feet west of the East line of said section; Thence North 20 feet; Thence East to the East line of said section; Thence continuing in the Southwest Quarter of the Northwest Quarter of Section 29, Town 1 South, Range 16 West South  $89^{\circ} 24' 48''$  East to a point directly south of the existing well; Thence North to a point 10 ft. north of the existing well.