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DRAINAGE TILE EASEMENT & MAINTENANCE AGREEMENT

THIS DRAINAGE TILE EASEMENT & MAINTENANCE AGREEMENT ("Agreement") is made this 19 day of MARCH, 2007, by and between DENNIS W. GARBERICH and LIELA GARBERICH, husband and wife, with address of 10470 - 225TH AVENUE SE, LAKE LILLIAN, MN 56253 (hereinafter referred to collectively as "GARBERICH"); and PATRICIA SCHMOLL and WILLIAM R. WALLENTA, as Trustees of the WILLIAM A. WALLENTA IRREVOCABLE TRUST dated January 22, 1993, with addresses of 101 PARK PLACE, OLIVIA, MN 56277, and 18132 - Judicial Way South, Lakeville, MN 55044-8894, respectively (hereinafter referred to collectively as "WALLENTA"); as follows:

WHEREAS, GARBERICH is the owner in fee of that certain real property (hereinafter referred to as the "GARBERICH Parcel"), situated in Kandiyohi County, Minnesota, described as follows:

That part of the Southeast Quarter (SE¼) of Section Twenty Eight (28), Township 117 North, Range 33 West of the Fifth Principal Meridian, East Lake Lillian Township, Kandiyohi County, Minnesota, described as follows: Beginning at the southwest corner of the Southeast Quarter of said Section 28; thence on a geodetic bearing of South 89 degrees 43 minutes 33 seconds East, along the south line of said Section 28, a distance of 1443.70 feet; thence on a bearing of North 02 degrees 32 minutes 15 seconds West a distance of 539.46 feet; thence on a bearing of North 89 degrees 43 minutes 33 seconds West a distance of 277.53 feet; thence on a bearing of North 0 degrees 19 minutes 30 seconds East a distance of 581.00 feet; thence on a bearing of South 89 degrees 43 minutes 33 seconds East a distance of 393.02 feet; thence on a bearing of North 0 degrees 14 minutes 31 seconds East a distance of 1534.61 feet to the north line of the Southeast Quarter of said Section 28; thence on a bearing of North 89 degrees 49 minutes 31 seconds West a distance of 1533.87 feet to the northwest corner of the Southeast Quarter of said Section 28; thence on a bearing of South 0 degrees 14 minutes 31 seconds

West, along the west line of the Southeast Quarter of said Section 28, a distance of 2651.76 feet to the point of beginning.

WHEREAS, WALLENTA is the owner in fee of that certain real property (hereinafter referred to as the "WALLENTA Parcel"), situated in Kandiyohi County, Minnesota, described as follows:

The Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty Eight (28), Township 117 North, Range 33 West of the Fifth Principal Meridian, East Lake Lillian Township, Kandiyohi County, Minnesota.

WHEREAS, there is presently installed and maintained on the GARBERICH Parcel and WALLENTA Parcel certain drainage tile lines running in a westerly direction from the GARBERICH Parcel and in a northwesterly direction across the WALLENTA Parcel, to an open drainage ditch situated on the WALLENTA Parcel that is part of Kandiyohi County Judicial Ditch System, all of which serves to facilitate drainage of ground and surface water from the GARBERICH Parcel and WALLENTA Parcel, for the mutual benefit of the said GARBERICH Parcel and WALLENTA Parcel.

WHEREAS, the approximate location of the various drainage tile lines and open ditch located on the GARBERICH Parcel and WALLENTA Parcel described in the above paragraph (hereinafter referred to collectively as the "Drainage System"), are believed to be as depicted on that certain tile map attached hereto and incorporated for reference herein as Exhibit A, Tile Map; and,

WHEREAS, the parties to this Agreement desire to continue the shared use, maintainance, repair and replacement of said tile lines for the continued drainage and mutual benefit of the GARBERICH Parcel and WALLENTA Parcel; and further desire to memorialize this Agreement setting forth the parties' respective rights and obligations with regard to the continued use, maintenance, repair, and replacement of said shared tile lines and open drainage ditch;

NOW THEREFORE, in consideration of the mutual promises herein made, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Grant of Easement & Reservation of Rights. WALLENTA hereby grants, conveys, and quitclaims unto GARBERICH, a nonexclusive perpetual right and easement to use, maintain, repair and replace the shared tile lines and open ditch located on the WALLENTA Parcel, for the continued drainage and benefit of the GARBERICH Parcel. Provided, that said right and easement herein granted shall be subject to and co-extensive with the reservation by WALLENTA of a nonexclusive perpetual right to continue to use, maintain, repair and replace that part of said shared tile lines and open ditch located on the WALLENTA Parcel for the continued drainage and benefit of the WALLENTA Parcel. Provided further, that said mutual and reciprocal rights and easements herein granted are subject to the terms, covenants and conditions of this Agreement.

2. Access For Maintenance, Repair and Replacement. The easements herein granted, and rights herein reserved, shall include a easement and right for ingress and egress in favor of GARBERICH for the limited purpose of going unto the WALLENTA Parcel to obtain access to the shared tile lines and open ditch to conduct reasonable and necessary maintenance, repairs and replacements of the shared tile lines and open ditch on the WALLENTA Parcel (hereinafter referred to collectively and interchangeably as "Maintenance Activities"). The easements and rights of access herein granted shall be limited only to such access as is reasonably necessary to perform the Maintenance Activities. Any Maintenance Activities shall be done at such times and in such manner as to avoid or minimize damage to crops, soil and any improvements on the WALLENTA Parcel. The party ordering or conducting the Maintenance Activities on the WALLENTA Parcel shall perform and complete said activities in a prompt manner and shall restore the WALLENTA Parcel to its' original undisturbed condition to the extent practicable; and shall reimburse the owner of the WALLENTA Parcel for the fair market value of any damage or loss to standing crops or to any other improvements caused by the Maintenance Activities, as an additional cost of the Maintenance Activity, in proportion set forth in Section 3, Costs hereinbelow.

3. Costs. To the extent that any costs incurred in the conduct of Maintenance Activities on the Drainage System covered by this Agreement are ordered, determined and assessed by Kandiyohi County as part of the Kandiyohi County Judicial Ditch System, then the allocation and assessment of Kandiyohi County shall control. Except as specifically provided otherwise in this Agreement, or as may be otherwise agreed upon by the parties, the cost of Maintenance Activities on the Drainage System that are not assessed as part of the Kandiyohi County Judicial Ditch System shall be shared and/or paid by the parties as follows:

a. Maintenance Activities On GARBERICH Parcel. The cost of Maintenance Activities on the tile lines and any tile intakes that are part of the Drainage System that are located on the GARBERICH Parcel, shall be borne and paid solely by GARBERICH.

b. Maintenance Activities On WALLENTA Parcel. The cost of Maintenance Activities on any branch tile lines located on the WALLENTA Parcel that are connected to the shared main tile lines, and any tile intakes located on the WALLENTA Parcel, that provide drainage benefit primarily for the WALLENTA Parcel, shall be borne and paid solely by WALLENTA. The cost of Maintenance Activities on that part of the Drainage System located on the WALLENTA Parcel, consisting of shared main tile lines from the GARBARICH Parcel to the point of connection to tile lines and open drainage ditch that are part of the Kandiyohi County Judicial Ditch System, if any, shall be borne and paid solely by GARBERICH.

c. Payment of Costs. Each party to this Agreement shall pay their allocated share of any non-publicly assessed costs of Maintenance Activities on the shared tile lines on the GARBERICH Parcel and WALLENTA Parcel determined under Section 3 above not later than thirty (30) days following receipt of written demand for payment accompanied by invoice setting forth each party's respective share.

4. Conduct of Shared Cost Maintenance Activities. The parties shall cooperate in good faith in the selection of a contractor to perform any Maintenance Activities on the shared tile lines and open ditch on the WALLENTA Parcel, the cost of which are shared by the parties under this Agreement. The parties shall cooperate in minimizing the cost of any Maintenance Activities that are shared under this Agreement. In the event that Maintenance Activities are required on the WALLENTA Parcel, then the party requesting said activities shall provide notice to the other affected party to this Agreement prior to ordering or commencing said activities, in accordance with Section 12, Notices, hereinbelow. Unless the parties agree otherwise, any repair or replacement of the shared main drainage tile lines or branch lines connected thereto shall be of similar or equivalent type, size and diameter consistent with that being repaired or replaced.

5. Conduct of other Maintenance Activities. Each party to this Agreement may conduct Maintenance Activities and may install additional main or branch tile lines on their own parcels that may be part of the Drainage System covered by this Agreement without the prior written consent of the other parties to this Agreement, at their own cost. In addition, GARBARICH may in the future install additional main tile lines from the GARBARICH Parcel across the WALLENTA Parcel to the point of connection to the tile lines and open drainage ditch that comprise part of the Kandiyohi County Judicial Ditch System, without the prior consent of WALLENTA, and at GARBARICH's sole cost. No party to this Agreement shall allow any third party who is not a party to this Agreement to connect to the existing shared tile lines, directly or indirectly, whether by way of extension of existing main tile line or attachment of branch lines, without first obtaining the prior written consent of the other parties to this Agreement.

6. Reciprocal Negative Covenant. The parties to this Agreement shall not intentionally, willfully or recklessly take any action that would obstruct or impede the drainage from, or cause damage to, the parcel, crops or improvements of any other party covered by this Agreement.

7. No Mechanics' Liens. The parties to this Agreement shall not allow any costs incurred in any Maintenance Activities to become a lien against the parcel of any other party to this Agreement. The party responsible for payment of any such liens shall take all necessary and appropriate action to remove any such liens immediately upon receipt of written notice thereof, and shall hold harmless and indemnify the non-responsible party from any liability thereon. This right of indemnification shall include reimbursement of any costs, including reasonable attorneys' fees, incurred in the enforcement of the indemnification rights and obligations contained in this Agreement, and incurred in defending against any such lien action or proceeding.

8. Compliance With Governing Authority. All Maintenance Activities covered by this Agreement shall be conducted in manner consistent with all applicable rules and regulations of all applicable governing agencies or authorities.

9. Perpetual Easements/Compliance. This Agreement, together with the easements, rights and obligations set forth in this Agreement, shall be perpetual in nature, shall run with the lands above described, and shall be binding upon and inure to the respective benefit and burden

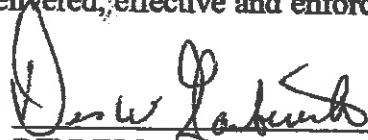
of the parties to this Agreement, and their respective personal representatives, heirs, successors and assigns.

11. Amendments. Except as specifically provided otherwise in this Agreement, any modification or cancellation of this Agreement shall be in writing executed with the same formalities of this Agreement. Nothing contained in this Agreement shall preclude the parties from reaching further agreement regarding the conduct of Maintenance Activities related to the shared tile lines serving their respective parcels, or the sharing of costs related to said Maintenance Activities, provided said agreements shall be in writing executed with the same formalities as this Agreement; and provided that in the absence of any such written agreement, the terms contained in this Agreement shall control.

12. Notices. Any notices required under this Agreement shall be in writing signed by the maker, addressed to the then record owner of the above described parcels, and shall be deemed received upon hand delivery or by ordinary U.S mail, postage prepaid.

13. Counterparts. This Agreement may be executed in separate counterparts, which together shall be enforceable as single original. Complete signed facsimiles and copies of this Agreement shall be enforceable as originals.

This Agreement is hereby duly executed, delivered, effective and enforceable on the date first above written.


DENNIS W. GARBERICH


LIELA GARBERICH


PATRICIA SCHMOLL, Trustee

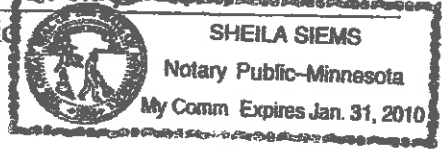

WILLIAM R. WALLENTA, Trustee

STATE OF MINNESOTA)
) ss.
COUNTY OF Kandiyohi)

Subscribed and sworn to before me this 19 day of March, 2007, by DENNIS W. GARBERICH and LIELA GARBERICH, husband and wife.

Sheila Siems

Notary Public

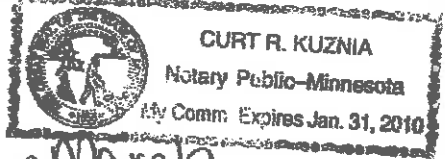


STATE OF MINNESOTA)
) ss.
COUNTY OF Beauvillle)

Subscribed and sworn to before me this 19 day of March, 2007, by PATRICIA SCHMOLL, as Trustee of the WILLIAM A. WALLENTA IRREVOCABLE TRUST dated January 22, 1993, and any amendments thereto.

Curt R. Kuznia

Notary Public



STATE OF MINNESOTA)
) ss.
COUNTY OF Dakota)

Subscribed and sworn to before me this 22nd day of March, 2007, by WILLIAM R. WALLENTA, as Trustees of the WILLIAM A. WALLENTA IRREVOCABLE TRUST dated January 22, 1993, and any amendments thereto, RICHARD SCHMOLL and CHRISTINE SCHMOLL, husband and wife.

Jennifer LaAnn Totman

Notary Public



THIS INSTRUMENT PREPARED BY:

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