

Prepared by: Gary L. Mick, SCHUSTER & MICK, P.O. Box 609, Guttenberg, Iowa 52052
Phone: (563) 252-1733

WATER AND WELL AGREEMENT

WHEREAS, Tommy N. Klaus and Sandra K. Klaus Revocable Trust Agreement dated September 22, 2015, (hereinafter referred to as "KLAUS TRUST"), is the owner of:

The Southwest Quarter (SW ¼) of the Northeast Quarter (NE ¼) of Section Seven (7), Township Ninety (90) North, Range Three (3) West of the Fifth P.M., Delaware County, Iowa.

(herein called PARCEL 1); and

WHEREAS, Daniel A. Thein and Sydney L. Thein, husband and wife, as Joint Tenants with Full Rights of Survivorship, and Not as Tenants in Common, (hereinafter referred to as "THEIN"), are the owners of:

Parcel 2021-31; in the Northwest Quarter of the Southeast Quarter Section 7, Township 90 North, Range 3 West of the 5th P.M., Delaware County, Iowa, according to the plat recorded in Book 2021, Page 1257.

(herein called "Parcel 2"); and

WHEREAS, on the property of the KLAUS TRUST there is located a Well; and,

WHEREAS, the parties have agreed that the THEINS, and their successors, will have access to the Well located on the KLAUS TRUST real estate for residential human consumption.

NOW, THEREFORE, IT IS AGREED:

1. This Water and Well Agreement shall be a perpetual easement over the KLAUS TRUST property for THEINS access to the Well for their private water line; and shall be a covenant running with the land of benefit and burden to Parcels 1 and 2.

2. Currently, the Well on the KLAUS TRUST property is not being used by

the KLAUS TRUST. Until such time as the KLAUS TRUST, or others through them, use the Well, all costs of maintenance and repairs shall be paid by the THEINS. In the event others use this Well, the cost of maintenance and repairs shall be allocated amongst the users, prorata.

3. Currently, the Well on the KLAUS TRUST property is not being used and therefore there has been no electric bill. The THEINS shall install an electric meter and pay all electric on the well. In the event others (including KLAUS TRUST) use this Well, the cost of electricity consumption shall be allocated amongst the users, prorata.

4. The right of the owners of Parcels 1 and 2 to draw water from the well is limited to single family residential purposes. Neither party shall have a right to draw water from the well for agricultural, commercial, or any purpose other than water consumed for single family residential purposes. Any extraordinary residential use (i.e. swimming pool, automatic lawn sprinklers, non-recycling water features (fountains, waterfalls, etc) shall require the consent of the other owner.

5. Each owner shall have a perpetual easement over, across, under and through that portion of the others Lot, which is **Fifteen feet (15')** on either side of the water line connecting their parcel to the well for purposes of construction, maintenance, repair and reconstruction of such lines.

6. If the owners of Parcels 1 or 2, or any subsequent user(s), fail to pay any costs required to be paid by this Agreement, the other party may, but need not, pay such costs and all sums so advanced shall be due and payable on demand at the election of the party paying the cost. Any unpaid fee or cost shall earn interest at Two Percent (2%) per month.

7. In the event either owners, or subsequent users, fail to pay the electric cost, or any share of costs allocated pursuant to this agreement, the owner of the other parcel, upon 30 day notice, may terminate the defaulting owner's use of the well.

8. In the event of system failure, access to pump controls and electrical supply shall not be unreasonably withheld, and in no case shall the inaccessibility time period exceed 24 hours.

9. This Agreement may be enforced in law or equity. Prior to instituting action or terminating usage, the parties may agree to submit any dispute to arbitration. In the event the parties agree to submit the dispute to arbitration, each party shall pick an arbitrator and the two thus chosen shall pick a third, and the arbitrators' decision shall be binding.

10. In any action or proceeding to enforce this Agreement, the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

Dated this 16 day of July, 2021.

Tommy N. Klaus and Sandra K. Klaus
Revocable Trust Agreement dated
September 22, 2015, Owner Parcel 1

By: Tommy N. Klaus Trustee
Tommy N. Klaus, Trustee

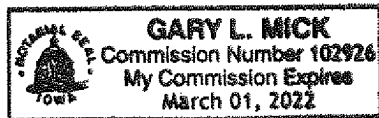
Daniel A. Thein
Daniel A. Thein, Owner, Parcel 2

Sandra K. Klaus Trustee
Sandra K. Klaus, Trustee

Sydney Thein
Sydney L. Thein, Owner, Parcel 2

STATE OF IOWA, COUNTY OF Clayton) ss:

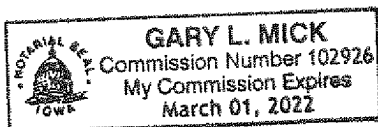
On this 16 day of July, 2021 before me, the undersigned, a Notary Public in and for said State, personally appeared Tommy N. Klaus and Sandra K. Klaus, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that such persons, as such Trustees of the Tommy N. Klaus and Sandra K. Klaus Revocable Trust dated September 22, 2015, executed the same as the voluntary act and deed of such persons and of such Trusts.



Gary L. Mick
Notary Public

STATE OF IOWA, COUNTY OF Clayton) ss:

On this 16 day of July, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Daniel A. Thein and Sydney L. Thein, husband and wife, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Gary L. Mick
Notary Public