

**DECLARATION OF EASEMENT
AND
EASEMENT MAINTENANCE AGREEMENT**

THIS DECLARATION AND EASEMENT MAINTENANCE AGREEMENT, made this _____ day of _____ 20__ by and between whose address is

WHEREAS, the parties hereto are the title holders and/or land contract purchasers of certain real property located in the Township of Marion, County of Livingston, State of Michigan, more particularly described in the DESCRIPTION ADDENDUM attached hereto as Exhibit A, and made a part hereof and as set forth in a certain survey performed by _____ dated _____; and

WHEREAS, it is the desire of the parties to establish a private road easement and maintenance agreement and an easement for public and private utilities for their benefit and for the benefit of their remaining lands; and

NOW, THEREFORE, in accordance with the terms and conditions of this Agreement and in consideration of the mutual covenants and benefits contained herein;

IT IS HEREBY COVENANTED, stipulated and agreed by and among the parties hereto as follows:

EASEMENT DECLARATION

1. The parties hereto hereby grant, transfer, establish and declare a non-exclusive, perpetual easement for ingress and egress, improved or unimproved, and for the installation of private utilities, over and across and for the benefit of the parcels described in the attached DESCRIPTION ADDENDUM, Exhibit A hereto, said easement being more particularly described in the EASEMENT DESCRIPTION ADDENDUM attached hereto and made a part hereof. **The easement is also to the public for purposes of emergency and other public vehicles and for whatever public utility services are necessary but this language shall not be construed as a dedication to the public.** This easement shall include a grant of easement to Marion Township, or its assigns for purposes of constructing, installing, maintaining, repairing, expanding, or connection to mains, laterals, appurtenances or related systems for the providing of municipal sanitary sewer services or municipal water supply.

2. The Grantors herein specifically reserve unto themselves, their respective heirs, executors, administrators, personal representatives, successors and assigns, the easement and the easement rights set forth herein in the described easement, for the benefit of the properties more particularly described in the attached DESCRIPTION ADDENDUM, Exhibit A, and for any further divisions thereof including the right to use said easement and to subsequently convey said easement and easement rights with said properties and any divisions thereof.

3. **The easement described in the attached EASEMENT DESCRIPTION ADDENDUM shall run with the land and title**, and shall be appurtenant thereto.

4. The property described in the attached DESCRIPTION ADDENDUM, Exhibit A, is in an area that abuts a private road easement as described on the attached EASEMENT DESCRIPTION ADDENDUM. The private road easement is not required to be maintained by the Board of County Road Commissioners or Marion Township. No public funds of the Township of Marion are to be used to build, repair, or maintain the private road.

EASEMENT MAINTENANCE

5. The owner or owners of each parcel, from and after the commencement of any construction of any house, building or other improvement on such parcel, shall share equally with and in the cost of maintaining and/or improving the private easement.

Such share of the cost shall be based upon the total number of parcels of improved property, each such parcel being one unit or share, and subject to the terms, conditions and definitions set forth herein.

6. Prior to any costs being incurred for normal maintenance of said easement, a simple majority of the improved parcels shall agree to such normal maintenance being performed and the cost of such maintenance. "Normal maintenance" shall include, but not be limited to snow removal, grading, re-graveling, and repair as necessary, the cost of which shall not exceed ONE THOUSAND FIVE HUNDRED (\$1,500.00) DOLLARS per occurrence. "Simple majority" shall be determined by the total number of parcels of improved property, each such parcel having One (1) vote. Multiple improved parcels with single ownership shall have one (1) vote for each parcel, provided, however, that each such vote shall constitute a separate share or unit for purposes of the cost of maintenance. "Improved parcel" or "improved property" shall include any parcel on which construction of any building, house or other improvement has commenced, and access to such "improved parcel" or "improved property" is gained from said private easement and not directly from a public road.

7. Prior to any costs being incurred for major capital improvements for said easement, all of the parcels, improved or unimproved, shall agree to such capital improvement and the cost thereof "Major capital improvement" shall include, but not be limited to, grading, re-grading, graveling, re-graveling paving repaving and repair the cost of which is in excess of ONE THOUSAND FIVE HUNDRED (\$1,500.00) DOLLARS per occurrence. Each parcel shall be liable for one (1) equal share of the total cost of such improvement, such share being based on the total number of parcels having rights in said easement, each such parcel being one unit or share. "Major capital improvement" does not include the cost of the initial installation of any road or drive constructed to Marion Township and/or Livingston County standards. The cost of initial installation of any such road or drive shall be at the expense of _____ or the heirs, successors and assigns thereof as the owner of the parcel more particularly described in the attached DESCRIPTION ADDENDUM.

8. Any costs incurred for normal maintenance or major capital improvements of said easement as described herein shall be a burden upon the land with a lien therefore against any parcel for which such costs have to be paid by the owner or owners of any such parcel. Any such lien shall attach upon the filing and recording of an affidavit by the owners of any two or more of the remaining parcels which are subject to and liable for such cost. Such affidavit shall set forth the description of the parcel or property against which the lien is claimed, whether the expenditure is for normal maintenance or for major capital improvement, the total amount of the expenditure, the portion attributable to such parcel or property, and the date or dates of such expenditures. A copy of such affidavit shall be sent to the owner or owners of such parcel against which the lien is claimed by regular mail, with postage prepaid, at the last known address of such owner or owners.

9. The owner or owners of each parcel shall be separately responsible to repair, and for the costs thereof, of any damage caused to the easement as a result of extraordinary use. "Extraordinary use" shall include, but not be limited to, movement of construction equipment, moving vans, commercial trucks, or other heavy loads, movement of recreational vehicles or increased usage not ordinarily consistent with normal traffic. The owner or owners of such parcel or parcels, whether improved or unimproved shall not be responsible for such repair or costs until such time as said easement is used by them or construction is commenced on such parcel. In the

event that any owner or owners or their agents, employees or invitees cause the type of damage described herein shall fail to make the necessary repairs, the remaining parcel owners may do so after 10 days' notice to such owner or owners, and any costs so expended shall be a burden upon the land of such owner or owners with a lien enforceable as set forth herein.

10. The owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties and having a need to use the road.

11. The owner or owners of each parcel shall exclusively be entitled to and obligated equally to maintain, repair and improve the private easement area described in the easement description for ingress, egress and private and public utilities. Any modifications to said easement shall be subject to Marion Township Board approval.

12. If repairs and maintenance are not made, the Township Board may bring the road up to the then applicable Marion Township private road standards and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of twenty-five (25) percent of total costs.

13. The parties further acknowledge that the aforesaid covenants are deed restrictions that are to be applicable to the aforesaid described parcels and are being granted in part, to avoid future problems on said parcels that will arise if additional structures were to be constructed on portions thereof.

14. It is further agreed by the parties hereto and all future owners of any parcel of land that uses private road easement that the Township of Marion, pursuant to Public Act No. 188 of 1954, may assess, and has the right to assess, the property owners whose property is benefited by this DECLARATION OF EASEMENT AND EASEMENT MAINTENANCE AGREEMENT for the cost of any and all maintenance expenses for any individual property owner who is assessed pursuant to the provisions of said Act for their proportionate share of the costs, expenses and maintenance fees that may be imposed herein.

This agreement and covenant runs with the land and is binding on all future owners, heirs, assigns, and successors in title.

This DECLARATION OF EASEMENT AND EASEMENT MAINTENANCE AGREEMENT shall take effect when executed by the parties.

IN WITNESS WHEREOF, the parties have executed this agreement and covenant in _____, Michigan, on this ____ day of _____, 20__.

SIGNED IN THE PRESENCE OF:

STATE OF MICHIGAN}
COUNTY OF LIVINGSTON

On this ____ day of _____, 200__ before me a Notary Public in and for said county, personally appeared _____, who to me is known to be the same person(s) described herein, and who executed the within instrument and acknowledged same to be his/her free act and deed.

Notary Public
_____ County, Michigan
Acting in _____, County
My Commission Expires:

INSTRUMENT DRAFTED BY