

TILE MAINTENANCE AGREEMENT

This Tile Maintenance Agreement (the "Agreement") is entered into as of the __ day of _____, 202__ by and between **Wetlands America Trust, Inc., a nonprofit corporation organized under the laws of the District of Columbia**, (hereinafter "WAT") and **KEITH D. LOHSE a/k/a KEITH LOHSE, CYNTHIA S. LOHSE a/k/a CYNTHIA LOHSE, AND THOMAS C. LOHSE a/k/a THOMAS LOHSE**, as trustees of the **LOUIS H. LOHSE REVOCABLE TRUST DATED NOVEMBER 7, 1996** and the **KATHLEEN E. LOHSE REVOCABLE TRUST DATED NOVEMBER 7, 1996**, (hereinafter "Farmer")

BACKGROUND

- A. WAT and Farmer desire to enter into an agreement regarding existing tile lines and drainage ditching running through their properties used to facilitate drainage of surface and subsurface water from the land owned by Farmer through land owned by WAT.
- B. There is at least One (1) tile line and related drainage ditching running through WAT's property, as evidenced by the crossing and outlet locations identified in the attached Exhibit A.
- C. Farmer benefits from the use and enjoyment of the existing tile line(s) and drainage ditching onto and across the WAT property and wishes to form an agreement regarding the maintenance and replacement of the existing tile lines and drainage ditching running under and across WAT's property.
- D. It is the intent of WAT and Farmer that this Agreement replaces and supersedes any previous agreements and that this Agreement run with the land and be binding upon their respective heirs, successors, and assigns.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration, WAT and Farmer agree as follows:

1. WAT is the owner of certain property located in the County of Murray, State of Minnesota legally described as follows:

The East half of the Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of Section Twelve (12), Township One Hundred Seven (107) North, Range Forty-two (42), EXCEPT that portion thereof sold to the State of Minnesota and particularly described as follows: All that part of the West Half of the Northeast Quarter of the Southeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 12, Township 107 North, Range 42 West, described as follows: From the West quarter corner of Section 12 North 90°00' East 3975.0 feet to the beginning; thence North 90°00' East 150.0 feet; thence South 00°40' East 622.9 feet; thence South 54°12' East 441.0 feet; thence South 74°54' West 520.3 feet; thence North 00°42' West 1015.8 feet to the beginning.

Also

All that part of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 12, Township 107 North, Range 42 West, described as follows: From the west quarter corner of Section 12 North 90°00' East 3975.0 feet; thence South 00°42' East 1869.8 feet to the beginning; thence South 89°22' East 324.6 feet; thence North 00°59' West 396.0 feet; thence North 84°08' East 692.0 feet; thence South 00°18' East 422.0 feet; thence South 87°44' West 307.0 feet; thence South 59°36' West 185.0 feet; thence South 00°59' East 343.0 feet; thence South 88° 51' West 543.0 feet; thence North 00°42' West 418.0 feet to the beginning. (the "Burdened Property").

2. Farmer is the owner of certain property located in the County of Murray, State of Minnesota legally described as follows:

The Northeast Quarter (NE $\frac{1}{4}$) of Section Twelve (12), Township One Hundred Seven (107) North of Range Forty-two (42) West of the Fifth Principal Meridian, Murray County, Minnesota, EXCEPT the following described tract: Commencing at the Southeast corner of said Northeast Quarter (NE $\frac{1}{4}$); thence 40.3 rods West on the Southerly boundary of said Northeast Quarter (NE $\frac{1}{4}$) to the point of beginning; thence North parallel to the East boundary of said Northeast Quarter (NE $\frac{1}{4}$) 32.6 rods; thence West and parallel to the South boundary of said Northeast Quarter (NE $\frac{1}{4}$) 32.00 rods; thence South parallel to the East boundary of said Northeast Quarter (NE $\frac{1}{4}$) 32.6 rods; thence East and upon the South boundary of said Northeast Quarter (NE $\frac{1}{4}$) 32.00 rods to the point of beginning. (the "Benefitted Property").

3. There currently exists at least One (1) tile line and drainage ditching running through the Burdened Property as identified by the crossing and outlet locations and further identified in the attached Exhibit A.
4. Farmer and the Benefitted Property benefit from the use of the existing tile lines and drainage ditching over and across the Burdened Property. Farmer and its successors and assigns may upon prior notification to the then current owner of the Burdened Property, enter the Burdened Property for the sole purpose to maintain, repair and/or replace existing tile line and outlet identified on Exhibit A, provided that any replaced tile line must be replaced with only non-perforated tile of equal or less size in the existing location. All maintenance, repair and/or replacement repairs of all tile and ditching located on the Burdened Property shall be at the sole expense of Farmer, (including heirs and assigns) and/or the then current owner of the Benefitted Property. All disturbances or excavations shall be limited to ten (10) feet on either side of the existing tile line(s). In addition, Farmer may maintain, repair, and/or replace any presently unidentified and later discovered tile lines located on the

Burdened Property in accordance with the terms above and herein and in cooperation with and upon prior notification to WAT or the current owner of the Burdened Property. At the sole expense of Farmer (including heirs and assigns) and/or the then current owner of the Benefitted Property, Farmer may also maintain existing drainage ditching on the Burdened Property excluding deepening or widening of any drainage ditch on the Burdened Property.

4. Farmer shall perform all maintenance, repair, and replacement in a manner which will minimize disturbance to the land and vegetation on the Burdened Property and all disturbed areas shall be restored as agreed and directed by the owner of the Burdened Property or its assigns to re-establish consistent vegetation and restore to its former condition as determined solely by the then current owner of the Burdened Property. Under no circumstances shall any existing tile lines (including newly discovered tile lines), outlet or existing drainage ditching be enlarged, expanded, extended, deepened, or realigned nor shall any new tile lines or drainage ditches be constructed on the Burdened Property.
5. The Owner of the Burdened Property retains its right but not the obligation to manipulate existing tile lines (including newly discovered tile lines) and drainage ditching provided it restores and repairs to maintain current capacity. "Manipulation" of tile lines (including newly discovered tile lines) and drainage ditching shall include but not be limited to realignment or removal of sections without impacting drainage by daylighting certain tile sections and potential replacement with re-sloped, larger diameter tile of equal or greater hydraulic capacity, and installing holding pond or sloughs. Should tile replacement be necessary, WAT shall only replace with non-perforated tile of equal or less size. The Owner of the Burdened Property shall have no obligation for "post-manipulation" management or expense associated with the maintenance, repair and/or replacement of tile line, outlets, or drainage ditching, or newly discovered tile lines, outlets or drainage ditching.
6. This Agreement shall be recorded, and the terms and conditions of this Agreement shall run with the land and bind and obligate the Burdened Property and the Benefitted Property and shall be binding upon each parties' heirs, successors, and/or assigns.
7. This Agreement and any dispute related thereto shall be construed and governed in accordance with the laws of Minnesota.
8. No amendment or modification to this Agreement will be valid unless it is set forth in writing, signed by authorized representatives of both parties and specifies with particularity the extent and nature of the amendment or modification.

This Agreement, including the Exhibit(s) attached hereto, entered into between the parties on this _____ day of _____, 2022, constitutes the entire agreement of the parties and supersedes any and all prior agreements, oral or written, with respect to the subject matter herein.

FARMERS

BY: _____

BY: _____

BY: _____

STATE OF MINNESOTA)
) SS
COUNTY OF)

The foregoing Agreement was acknowledged before me this _____ day of _____, 202_, by KEITH D. LOHSE a/k/a KEITH LOHSE, CYNTHIA S. LOHSE a/k/a CYNTHIA LOHSE, AND THOMAS C. LOHSE a/k/a THOMAS LOHSE, as trustees of the LOUIS H. LOHSE REVOCABLE TRUST DATED NOVEMBER 7, 1996 and the KATHLEEN E. LOHSE REVOCABLE TRUST DATED NOVEMBER 7, 1996.

Notary Public

WETLANDS AMERICA TRUST, INC.

BY _____
Its _____

STATE OF TENNESSEE)
) SS
COUNTY OF SHELBY)

The foregoing Agreement was acknowledged before me this _____ day of _____, 202_, by _____, the _____ of Wetlands America Trust, Inc., a nonprofit corporation organized under the laws of the District of Columbia, on behalf of said corporation.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Rolf Nycklemoe

Nycklemoe & Ellig, P.A.

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Fergus Falls, MN, 56537

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EXHIBIT A
Tile and Ditch Locations on Burdened Property

Tile and Ditch Maintenance Exhibit A
Murray County - Lowville TWP
T107N R42W Part of NESE Section 12

