

DRIVEWAY & UTILITY EASEMENT  
AND  
SILKEY DRIVEWAY ASSOCIATION AGREEMENT

WHEREAS, Austin D. Silkey and Grace L. Silkey, husband and wife, hereinafter referred to as "the Silkeys", sold real property together with easements for ingress and egress, which real property is legally described as follows and to the following Grantees:

PARCEL I

The East One-half of Southwest Quarter of Northeast Quarter in Section 23, Township 111 North, Range 20 West of the Fifth Principal Meridian, Rice County, Minnesota,

was conveyed to Mark H. Bouman and Janice M. Bouman, husband and wife, hereinafter referred to as "the Boumans", by Warranty Deed dated February 24, 1999, recorded on March 2, 1999 as Document No. 449410;

PARCEL II

Part of the Southeast Quarter of the Northeast Quarter and part of the Northeast Quarter of the Northeast Quarter, all being in Section 23, Township 111 North, Range 20 West of the Fifth Principal Meridian, Rice County, Minnesota described as follows: The Southeast 1/4 of the Northeast 1/4 except the following described parcel: Beginning at a point in the North line of said Southeast 1/4 of the Northeast 1/4, a distance of 300.00 feet Easterly from the Northwest corner thereof; thence continue Easterly along said North line, 500.00 feet; thence Southerly, parallel with the West line of said Southeast 1/4 of the Northeast 1/4, 325.00 feet; thence Westerly, parallel with said Northline of the Southeast 1/4 of the Northeast 1/4, 500.00 feet; thence Northerly, parallel with said West line of the Southeast 1/4 of the Northeast 1/4, 325.00 feet to said point of beginning; together with that part of said Northeast 1/4 of the Northeast 1/4 described as follows: Beginning at a point in the East line of said Northeast 1/4 of the Northeast

1/4, a distance of 896.00 feet Southerly from the Northeast corner thereof (for purposes of this description bearings are assumed and based on said East line being South 0 degrees 58 minutes 06 seconds East); thence continue Southerly along said East line to the Southeast corner of said Northeast 1/4 of the Northeast 1/4; thence Westerly, along the South line of said Northeast 1/4 of the Northeast 1/4, 350.00 feet; thence Northerly, parallel with said East line of the Northeast 1/4 of the Northeast 1/4 to a point in a line South 89 degrees 23 minutes 26 seconds West from said point of beginning; thence North 89 degrees 23 minutes 26 seconds East, 350.00 feet to said point of beginning,

was conveyed to Bradley D. Minske and Diane J. Minske, husband and wife, hereinafter referred to as "the Minskes", by Warranty Deed dated November 5, 1998, recorded November 24, 1998 as Document No. 445405;

#### PARCEL III

That part of the Northeast Quarter of Section 23, Township 111 North, Range 20 West of the Fifth Principal Meridian, Rice County, Minnesota, described as follows: Beginning at a point in the North line of said Northeast Quarter, a distance of 871.00 feet easterly from the Northwest corner thereof; thence North 89°23'13" East (for purposes of this description bearings are assumed and based on said North line of Northeast Quarter being North 89°23'13" East), a distance of 1756.56 feet to the Northeast corner of said Northeast Quarter; thence South 0°58'06" East, along the East line of said Northeast Quarter, a distance of 896.80 feet; thence South 89°23'13" West, 1316.96 feet to a point in the West line of Northeast Quarter of Northeast Quarter of said Section 23; thence North 62°19'48" West, 506.46 feet to a point in the prolongation southerly of the East line of the West 871 feet of the Southeast Quarter of Southeast Quarter of Section 14, Township 111 North, Range 20 West; thence North 0°32'26" West, 656.81 feet to said point of beginning; containing 35.00 acres;

was conveyed to William P. Frost and Julie A. Frost, husband and wife, hereinafter referred to as "the Frosts", by Warranty Deed dated August 23, 1994, recorded September 14, 1994 in Book 380 of Deeds, Pages 149-150.

WHEREAS, the Silkeys granted an ingress/egress easement to the Boumans, the Minskes, and the Frosts, which easements are legally defined in the above-described Warranty Deeds;

WHEREAS, a portion of the ingress/egress easement is used in common by the Boumans, the Minskes, and the Frosts, however, the Boumans' easement is 50 feet in width whereas the Minskes and the Frosts' easement is 66 feet in width;

WHEREAS, it is the intention of the parties to have a uniform easement for that common portion of the easement, which uniform easement shall be 66 feet in width and which common portion is and will be identified herein and legally described as:

#### COMMON EASEMENT

That part of the Northwest Quarter and Northeast Quarter of Section 23, Township 111 North, Range 20 West of the Fifth Principal Meridian, Rice County, Minnesota, being a strip of land 66.00 feet in width, 33.00 feet on each side of the following described center line: Commencing at the Northwest corner of said Northeast Quarter; thence southerly along the West line of said Northeast Quarter (for purposes of this description bearings are assumed and based on said West line being South 0°33'45" East), 592.76 feet; thence South 89°26'15" West, 974.18 feet to a point in the center line of County State Aid Highway No. 20 and the point of beginning of the center line to be herein described; thence North 73°31'52" East, 322.87 feet; thence North 69°00'50" East, 193.23 feet; thence South 87°04'53" East, 136.17 feet; thence South 77°44'07" East, 195.29 feet; thence South 62°37'28" East, 155.38 feet; thence South 55°53'04" East, 128.88 feet; thence North 85°28'22" East, 613.37 feet; and there terminating.

WHEREAS, the Silkeys own the real property legally described above as the Common Easement;

WHEREAS, the parties hereto desire to create an association to maintain and manage the driveway situated within the Common Easement;

NOW, THEREFORE, for valuable consideration, the parties agree as follows:

1) The Silkeys hereby grant a non-exclusive driveway and utility easement to the Boumans, the Minskes, and the Frosts, the heirs, successors and assigns of their above-described properties, for travel and right of way, ingress and egress, utility and telephone lines, and the right to make reasonable improvements and repairs thereto, over, under, across and thru the following described real property:

## COMMON EASEMENT

That part of the Northwest Quarter and Northeast Quarter of Section 23, Township 111 North, Range 20 West of the Fifth Principal Meridian, Rice County, Minnesota, being a strip of land 66.00 feet in width, 33.00 feet on each side of the following described center line: Commencing at the Northwest corner of said Northeast Quarter; thence southerly along the West line of said Northeast Quarter (for purposes of this description bearings are assumed and based on said West line being South 0°33'45" East), 592.76 feet; thence South 89°26'15" West, 974.18 feet to a point in the center line of County State Aid Highway No. 20 and the point of beginning of the center line to be herein described; thence North 73°31'52" East, 322.87 feet; thence North 69°00'50" East, 193.23 feet; thence South 87°04'53" East, 136.17 feet; thence South 77°44'07" East, 195.29 feet; thence South 62°37'28" East, 155.38 feet; thence South 55°53'04" East, 128.88 feet; thence North 85°28'22" East, 613.37 feet; and there terminating.

2) The easement is perpetual, runs with the land, and shall be binding upon the heirs, successors and assigns of the parties.

3) The parties hereby associate themselves in connection with the maintenance and management of the driveway easement within the Common Easement, which association shall be hereafter known as the Silkey Driveway Association ("the Association").

### SILKEY DRIVEWAY ASSOCIATION

#### I. PURPOSE

The purpose of the Association is to manage, maintain, repair, and improve the driveway easement within the Common Easement ("the driveway").

#### II. GRANT OF DRIVEWAY EASEMENT INTERESTS TO ASSOCIATION

The Boumans, the Minskes, and the Frosts, by execution hereof, grant and convey unto the Association all of their right, title and interest in and to the driveway easement within the Common Easement.

#### III. MEMBERSHIP

Membership in the Association shall be coexistent with the ownership of the above-described property currently owned by the Boumans, the Minskes and the Frosts, however, the Boumans and the Minskes shall not be entitled to vote on Association matters nor

shall they be responsible for Association costs until they begin construction on a home on their respective properties. Additionally, anyone, except the Silkeys, who may use any portion of the Driveway which is situated in the Northeast Quarter of Section 23 for access to property owned by such user shall be required to be a member of the Association as a condition of such usage. Each parcel of property from which the owner uses the Driveway shall be entitled to one vote in all Association matters. For purposes of determining the number of votes, "each parcel of property from which the owner uses the Driveway" shall mean that if multiple parcels of record are owned by a common owner and the multiple parcels of record adjoin each other, such multiple parcels of record shall be accorded a total of only one vote. If the Silkeys construct a residence to which access is gained by using a portion of the Driveway in the Northeast Quarter of Section 23, the Silkeys shall be required to be a member of the Association at the time they begin construction.

#### IV. MEETINGS

The Association shall hold an annual meeting on the fifteenth day of October of each year. If said date is a Sunday, the meeting shall be held the following Monday. Special meetings may be called at any time by the President of the Association or by any three (3) members of the Association.

#### V. NOTICE OF MEETINGS

Notice of the annual meeting shall be given by the Secretary at least five (5) days before the meeting and shall state the date, time and place of the meeting. Notice of special meetings shall be given two (2) days before the meeting. Notices may be given in writing, by telephone, or personally and any member who attends shall be deemed to have received notice.

#### VI. OFFICERS

The Association shall elect, at its annual meeting, a President, Secretary and Treasurer, and any other officers it deems necessary.

The President shall preside at all meetings and shall be responsible for the management of the Association.

The Secretary shall record the minutes of all meetings.

The Treasurer shall keep financial records.

#### VII. EXPENSES OF OPERATION

The Association shall be solely responsible for all costs of

maintenance, repair, and improvement of the driveway. The Association shall also be solely responsible for all mowing, blading, graveling, and snow and debris removal from the driveway. Each member shall be responsible for an equal share of the maintenance, repair, improvement, mowing, blading, graveling, and snow and debris removal costs of the driveway, subject to the provisions regarding Limitation of Improvements. Monthly, quarterly, semi-annual, or annual dues shall be assessed against members in an amount sufficient to carry on the ordinary operation of the driveway plus a reserve amount to maintain the driveway. Special assessments may be made from time to time for emergency purposes or unsecured expenses. The Association may pursue collection against any member in arrears in dues or assessments and may take such further action to enforce payment thereof as a majority of the membership shall deem appropriate. Each member shall be responsible for his or her own driveway that branches from the Association's Driveway.

#### VIII. LIMITATION ON IMPROVEMENTS

If the Association considers paving or laying a hard surface on the Driveway, no such improvement shall be made at the expense of those members who object. If the Association proceeds further with such improvement, only those members who approved the improvement shall be required to contribute to the cost of making the improvement.

#### IX. TERMINATION

Any Member may gain driveway access to his or her own lot from a different source and cease to use the Driveway herein described. At such point, the Member shall be permitted to terminate the membership and shall no longer be responsible for any financial obligations of the Driveway. All previous costs due from such Member shall, however, still be the responsibility of the terminating Member until paid.

#### X. RELEASE

In the event a Member desires release of a portion of his property from the terms of this easement, a quit claim deed may be signed by the President and Secretary of the Silkey Driveway Association releasing or limiting any easement contained herein and such release will be deemed to release the interest of all the Members and the Association to any interest in the property of the Member being released. Provided, however, that the Association may not release any easement necessary for the operation of the Driveway.

## XI. CONFLICT/ARBITRATION

In the event of a dispute over the operation or management of this Agreement or the Silkey Driveway Association, the Members agree that the dispute shall be handled according to the terms of this article. A special meeting of the Members shall be called by sending written notice to each member of the Association no later than five (5) days before the special meeting. At the special meeting, a vote of the Members actually in attendance shall be taken with a majority deciding the issue. The decision of the majority shall be binding upon all parties as to the matter in controversy. In the event, however, of a deadlock, each party in the dispute shall choose one arbitrator and each named arbitrator shall choose one additional arbitrator and the decision of the majority of all of the arbitrators shall be final and conclusive of the question involved.

## XII. BINDING EFFECT

The terms and covenants of this Agreement, as set forth herein, shall run with the land hereinbefore described and shall extend to and bind the heirs, successors and assigns of the parties hereto.

## XIII. TERMINATION

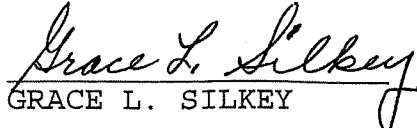
This agreement may be terminated by a vote of three-fourths (3/4) of all the members of the Association. The Resolution of the Association terminating the Association shall be recorded with the County Recorder. In the event of termination, all easements in favor of the association for the driveway easement shall be conveyed and transferred to the Member then using the Driveway.

## XIV. AMENDMENT

This agreement may be amended at any time at a properly held regular or special meeting of the Association upon a vote of two-thirds (2/3) of the members of the Association. Should any provision of this Association Agreement be objectionable to a current or prospective mortgagee, a special meeting shall be noticed and held to address amending this Agreement.

Dated this 15<sup>th</sup> day of April, 2000.

  
AUSTIN D. SILKEY

  
GRACE L. SILKEY

Mark H. Bouman  
MARK H. BOUMAN

Janice M. Bouman  
JANICE M. BOUMAN

Bradley D. Minske  
BRADLEY D. MINSKE

DIANE J. MINSKE

William P. Frost  
WILLIAM P. FROST

Julie A. Frost  
JULIE A. FROST

STATE OF ~~ARIZONA~~ ) MINNESOTA  
COUNTY OF ~~PINAL~~ ) RICE

On this 16<sup>TH</sup> day of August, 2000, Austin D. Silkey and Grace L. Silkey, husband and wife, personally appeared before me and executed the foregoing instrument.

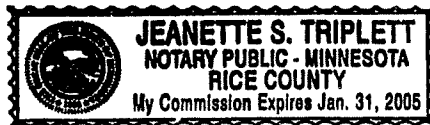
Timothy L. Morissette  
Notary Public



STATE OF MINNESOTA )  
COUNTY OF RICE )

On this 20<sup>th</sup> day of April, 2000, Mark H. Bouman and Janice M. Bouman, husband and wife, personally appeared before me and executed the foregoing instrument.

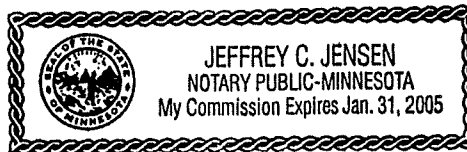
Jeanette S. Triplett  
Notary Public



STATE OF MINNESOTA )  
COUNTY OF Dakota )

On this 23 day of May, 2000, Bradley D. Minske and Diane J. Minske, husband and wife, personally appeared before me and executed the foregoing instrument.

Jeffrey C. Jensen  
Notary Public



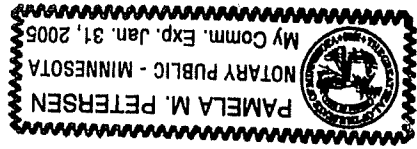


STATE OF MINNESOTA)

COUNTY OF Rice)

On this 24 day of April, 2000, William P. Frost and Julie A. Frost, husband and wife, personally appeared before me and executed the foregoing instrument.

Pamela M Petersen  
Notary Public



THIS INSTRUMENT WAS DRAFTED BY:

Timothy L. Morisette  
Lampe, Swanson, Morisette & Hatch, L.L.P.  
105 East Fifth Street  
Northfield, MN 55057