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STATE OF MI BENZIE CO
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PAGE 1 OF 9
PAULA EBERHART
REGISTER OF DEEDS

AGREEMENT

This Agreement is entered into between Crystal Highlands Owners Association, a Michigan nonprofit corporation whose address is 2911 White Birch Trail, Beulah, MI 49617, ("CHOA"), Crystal Highlands Preserve Owners Association ("CHPOA") whose address is 7367 Lumley Rd., Bear Lake, MI 49614, and Kelly Preserve, LLC, ("Kelly Preserve"), whose address is 7367 Lumley Rd., Bear Lake, MI 49614.

Recitals

1. CHOA is made up of the owners of lots in Crystal Highlands, Lake Township, Benzie County, Michigan.
2. CHPOA is made up of the owners of lots in Crystal Highlands Preserve, Lake Township, Benzie County, Michigan.
3. On July 7, 1986, CHO recorded two easements at Liber 214, Pages 424 and 426 of the Benzie County records granting access and recreational use of property on Long Lake to a nonspecific class of purchasers of property from CHO ("1986 Easements"). Kelly Preserve and lot owners in Crystal Highlands Preserve are successors in the chain of ownership from CHO. In a deed, recorded on October 25, 1993, at Liber 277, Page 4, CHO conveyed title to the property burdened by the 1986 Easements to CHOA. The parties desire to terminate any rights which CHPOA or Kelly Preserve may possess under the 1986 Easements.
4. On January 9th, 1987, CHOA entered into a lease with Crystal Highlands Orchards, Inc. which was recorded at Liber 218, Page 12, of Benzie County Records ("1987 Lease").
5. On April 12, 2005, CHOA and Eileen M. Kelly, as successor in interest to Crystal Highlands Orchards, Inc., entered into an amendment to the 1987 Lease which was recorded at 2005R-02255 of Benzie County Records ("1987 Lease Amendment").
6. On August 2, 1991, Crystal Highlands Orchards, Inc. and CHOA entered into an easement agreement which was recorded at Liber 252, Page 738 of Benzie County Records ("1991 Easement").

7. On February 18, 2000, Crystal Highlands Orchards, Inc, White-O-Morn Farms, Inc., Eileen M. Kelly, and CHOA entered into an easement agreement which was recorded at Liber 366, Page 1174 of Benzie County Records ("2000 Easement").
8. On April 12, 2005, Crystal Highlands Water Association (formerly Crystal Highlands Orchards, Inc.), White-O-Morn Farms, Inc., Eileen M. Kelly, and CHOA entered into an amendment to the 2000 Easement which was recorded at 2005R-02254 of Benzie County Records ("2000 Easement Amendment").
9. On September 13, 2005, Eileen M. Kelly granted an easement appurtenant to the land to Crystal Highlands Preserve lot owners which was recorded at 2005R-06029 of Benzie County Records ("2005 Easement").
10. Kelly Preserve, LLC is the successor in interest to the lease and easements listed above.
11. CHOA, Kelly Preserve, LLC and CHPOA desire to terminate all of the above leases and easements and grant a new easement as follows.

Agreement

For consideration of \$1.00, the parties agree to the following terms and conditions:

1. **The Existing Lease and Easements.** The following existing Lease and Easements are subject to this Agreement. All Leases and Easements are extinguished.
 - a. **The 1986 Easements**
 - i. The 1986 Easements are terminated in their entirety with respect to CHPOA and Kelly Preserve.
 - b. **1987 Lease and 1987 Lease Amendment**
 - i. The 1987 Lease and the 1987 Lease Amendment are terminated in their entirety.
 - c. **1991 Easement**
 - i. The 1991 Easement is terminated in its entirety.
 - d. **2000 Easement and 2000 Easement Amendment**

- i. The 2000 Easement and 2000 Easement Amendment are terminated in their entirety.

e. **The 2005 Easement**

- i. The 2005 Easement is terminated in its entirety.

2. **New Easements.**

- a. **Pumphouse Road Easement** - The following provides the legal description for a new easement created by this Agreement which is granted as set out on the map attached as Attachment A and as stated below. To the extent there exist conflicts between the map and the easements stated below the map shall prevail. It is the intent of this easement to follow the presently existing gravel roadway used to service the pumphouse on CHOA property that extends into CHPOA Lot 3.

- i. CHPOA grants to CHOA a non-exclusive, easement in gross, over the road known as Crystal View Commons in the Plat of Crystal Highlands Preserve, according to the recorded plat thereof. Said easement begins at the intersection of Highland Drive and Crystal View Commons and continues along Crystal View Commons where it connects with the following described easement over Lot 3 of the Plat of Crystal Highlands Preserve, the centerline of said easement being defined as follows:

Commencing at the Northeast corner of said Lot 3; thence Southwesterly 28.52 feet, along the Northerly line of said Lot 3 and the arc of a 1140.34 foot radius curve to the right, the central angle of which is 01°25'59" and the long chord of which bears South 74°22'12" West, 28.52 feet, to the point of beginning of said easement centerline; thence South 22°03'27" East, 68.84 feet; thence South 35°56'49" East, 42.01 feet; thence South 55°38'50" East 35.34 feet to a point on the Easterly line of said Lot 3 and the point of ending.

The sole purposes of this easement are (a) to allow CHOA and its contractors access to its existing well in order to maintain and repair said well, and (b) to allow CHOA and its members to use the easement as a non-motorized, pedestrian path. The easement shall not be used by any motorized vehicle except for vehicles used directly in connection with

maintaining the well, and the easement may not be used for any other purpose than those specified above.

b) **Pedestrian Easement** – In addition to the pedestrian easement on the pumphouse road, CHOA and its members are granted a non-exclusive easement over the roads known as Crystal View Commons and Jack's Way strictly for non-motorized, pedestrian use only. If such roads are relocated, reconfigured, or abandoned at any time by CHPOA, it is the intent of the parties that this pedestrian easement applies to any and all roads remaining within Crystal Highlands Preserve. It is not a violation or breach of this Agreement for CHOA members to use roads in the Preserve for any reasonable purpose, including motor vehicle use, if such use is as a guest or invitee of a Preserve lot owner.

3. Terms and Conditions for New Easement

- a. All owners of lots in Crystal Highland Preserve are hereby granted the option of becoming Associate Members of CHOA under the following terms and conditions:
 - i. Associate Members have the right to use all CHOA amenities including its trails, recreation area and Long Lake frontage, but not its Crystal Lake beaches.
 - ii. Associate Members are obligated to pay annual dues equal to one-half of the amount full members must pay. Associate Members are obligated to pay one-half of the amount of any special assessment levied on full members unless the special assessment is for the maintenance or improvement of CHOA's Crystal Lake beaches.
 - iii. Crystal Highlands Preserve lot owners may exercise the option to become Associate Members at any time and may withdraw their Associate Membership at any time. Membership is on an annual basis and dues will not be prorated for periods of less than a year. If a lot owner becomes an Associate Member and later withdraws, the CHOA Board may deny the same lot owner the ability to restore its Associate Membership, but a new owner of the lot shall have the right to become an Associate Member.
 - iv. Associate Members have those rights and obligations specified in the CHOA Bylaws, including the obligation to abide by all CHOA rules and regulations.
- b. CHOA shall keep all easement properties free and clear from, any and all liens, claims, and demands for work performed, materials furnished, or operations conducted thereon. If any liens, claims, or demands are placed on the easement properties due to construction or maintenance by CHOA it shall immediately pay said liens, claims, and demands, and insure that they are fully waived and released.

- c. CHPOA may post the easements against hunting and trespassing. CHOA shall take appropriate measures necessary to insure that only authorized users of the easements use the easements.
- d. CHOA shall defend, indemnify, and hold harmless CHPOA, and its members from any and all claims, liabilities, loss, damage, expense, charge, or demands resulting from use of the easements by CHOA or its members, guests or contractors.
- e. CHOA shall maintain liability insurance of at least \$5,000,000 naming Kelly Preserve, LLC and CHPOA as additional insureds. CHOA shall provide a copy of the policy to Kelly Preserve, LLC and CHPOA within 10 business days of either party's request.
- f. The parties acknowledge that, except for rights conferred as a result of CHPOA member's becoming Associate Members of CHOA, as provided in Section 3 (a) of this Agreement, the ownership of any lot in Crystal Highlands Preserve does not confer any rights in CHOA's other recreational amenities or properties, including its Long Lake and Crystal Lake beaches, recreational area, and hiking trails.
- g. This Agreement and the New Easement herein shall run with the land and bind all heirs, successors and assigns.
- h. The benefit of the easement shall belong to CHOA.
- i. This Agreement, the New Easement, and the burdens and benefits arising herein shall not be assigned without the written permission of the parties.
- j. Each person signing this Agreement on behalf of a party hereto represents that such person is authorized to bind and execute this Agreement on behalf of that party.
- k. The covenants, promises, and responsibilities in this Agreement are declared to be conditions to this Agreement. Should any party default in performance of any covenant, promise, or responsibility contained in this Agreement, the non-defaulting party may terminate this Agreement, the non-defaulting party must notify the other party in writing and allow 30 days for the alleged default to be corrected. If the default is not corrected, the non-defaulting party may enforce this Agreement through binding arbitration with the American Arbitration Association in Traverse City, Michigan, and the parties recognize such proceedings can result in termination of the easements created herein. Under no circumstance shall the leases and easements terminated in the above Section 1 be revived regardless of arbitration.

- l. The parties to this Agreement shall promptly execute and deliver to one another such further documents as may be reasonably necessary to effectuate the provisions of this Agreement and agree not to cause any unreasonable delay in carrying out its terms.
- m. This Agreement, and any disputes arising from this Agreement shall be subject to the laws of the State of Michigan.
- n. If any term, covenant, or condition of this Agreement or the application of which to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of the term, covenant, or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall be effective, and each term, covenant, or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- o. This Agreement forms the entire agreement between the parties regarding the subject matter of this Agreement and all prior negotiations and agreements regarding the topics of the Agreement between the parties, whether written or oral, shall be of no further force and effect. This Agreement may not be modified except by a written document signed by both parties.

CRYSTAL HIGHLANDS OWNERS ASSOCIATION

(s/ Paula J. Lohss
 By: Paula J. Lohss
 Its: President

Dated: 12/22/2022

INDIANA)
 STATE OF MICHIGAN)
 HAMILTON) ss.
 COUNTY OF BENZIE)

The foregoing instrument was acknowledged before me on 12/22/2022, by Paula J. Lohss, President of the Crystal Highlands Owners Association.



Leigh Ann Conaway
 Leigh Ann Conaway, Notary Public
 Hamilton County, ~~Michigan~~ Indiana
 My commission expires: May 10, 2024
 Acting in Hamilton County, ~~Michigan~~

KELLY PRESERVE, LLC

/s/ [Signature]
By: Stephen R. Kelly
Its: Managing Member

Dated: 1/3/23

STATE OF MICHIGAN)
) ss.
COUNTY OF BENZIE)

The foregoing instrument was acknowledged before me on January 3, 2023 by Stephen R. Kelly, Managing Member of Kelly Preserve, LLC.

[Signature]
Kim Childs, Notary Public
Benzie County, Michigan
My commission expires: 12/26/2027
Acting in Benzie County, Michigan

CRYSTAL HIGHLANDS PRESERVE OWNERS ASSOCIATION

/s/ [Signature]
By: Stephen R. Kelly
Its: President

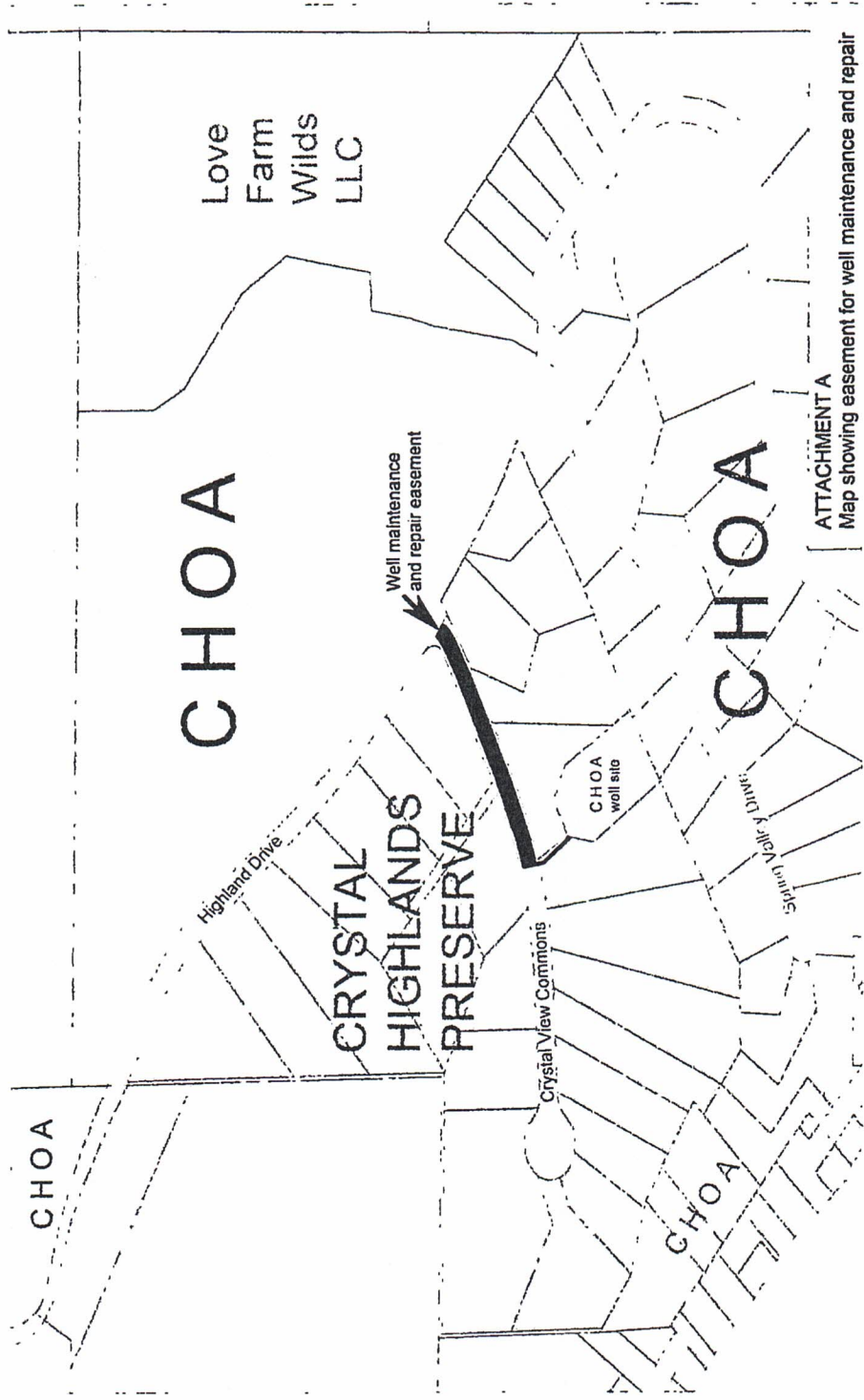
Dated: 1/3/23

STATE OF MICHIGAN)
) ss.
COUNTY OF BENZIE)

The foregoing instrument was acknowledged before me on January 3, 2023, by Stephen R. Kelly, President of the Crystal Highlands Preserve Owners Association.

[Signature]
Kim Childs, Notary Public
Benzie County, Michigan
My commission expires: 12/26/2027
Acting in Benzie County, Michigan

Drafted without opinion and legal descriptions provided:
By: Jeffrey L. Jocks (P67468)
Sondee, Racine & Doren, PLC
310 W. Front St., Ste 300
Traverse City, MI 49686
231-947-0400



ATTACHMENT A
Map showing easement for well maintenance and repair