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Dubuque County Iowa  
John Murphy Recorder

File **2022-00007588**

**EASEMENT AGREEMENT**  
**Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

Paul J. Sigwarth, O'Connor & Thomas, P.C., 1000 Main St., Dubuque, IA 52001,  
Telephone: (563) 557-8400

**Return Document To:** (name and complete address)

Paul J. Sigwarth, O'Connor & Thomas, P.C., 1000 Main St., Dubuque, IA 52001, Telephone:  
(563) 557-8400

**Grantor:** RYAN R. GOTTO and SANDRA M. GOTTO, husband and wife

**Grantees:** THOMAS J. BUDDE, as trustee of the THOMAS J. BUDDE REVOCABLE  
FAMILY TRUST DATED DECEMBER 23, 1999

**Legal Description:**

See legal descriptions on attached Exhibits A, B and C on Pages 8.

42<sup>00</sup> O'Connor & Thomas

## EASEMENT AGREEMENT

This Easement Agreement (this "Agreement") is made and entered into as of this 16th day of June, 2022, by and among THOMAS J. BUDDE, as trustee of the THOMAS J. BUDDE REVOCABLE FAMILY TRUST DATED DECEMBER 23, 1999 ("Parcel A Owner"), and RYAN R. GOTTO and SANDRA M. GOTTO, husband and wife ("Parcel B Owner"). Parcel A Owner and Parcel B Owner are sometimes collectively referred to herein as the "Parties" or "Owners" and individually as a "Party" or "Owner."

### RECITALS

WHEREAS, Parcel A Owner owns the real estate legally described on attached Exhibit A;

WHEREAS, Parcel B Owner owns the real estate legally described on attached Exhibit B;

WHEREAS, Parcel B Owner is willing to grant to Parcel A Owner a permanent, non-exclusive access, ingress, and egress easement to Parcel A for the benefit of Parcel A Owner and its tenants, customers, employees, agents, contractors, vendors, and invitees onto, over and across Parcel B by way of the access point from Tollgate Road (the "Easement");

WHEREAS, the area of the Easement is more particularly described on the attached Final Plat of Budde Farm Subdivision, Dubuque County, Iowa dated February 22, 2022, and filed with the Dubuque County Recorder on April 12, 2022, as Plat 2022-4776, a copy of which is attached hereto as Exhibit C (the "Easement Area"); and

WHEREAS, the Parties desire to reduce their agreement to writing and to bind the Parties and their successor-in-interest and assigns hereto.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree upon the following mutual terms and conditions:

### AGREEMENT

1. Recitals. The above recitals are incorporated herein by reference and form an integral part of this Agreement.

2. Grant of Permanent Access, Ingress, and Egress Easement.

(a) Parcel B Owner hereby grants and conveys to Parcel A Owner a permanent and perpetual non-exclusive easement for all ordinary purposes of access, ingress, and egress onto, over and across the Easement Area to Parcel A, to allow Parcel A Owner, its tenants, customers, employees, agents, contractors, vendors, invitees, and guests to walk and/or drive vehicles, tractors, and other farm-related machinery and equipment over the Easement Area and to enter Parcel A from the access point on Tollgate Road over and across the Easement Area.

(b) The term “ordinary purposes” or “easement purpose” as used in this Agreement means an access from Tollgate Road, including driveway access, traveled on by pedestrian, vehicles and other machinery and equipment, including large vehicles, tractors, trucks, machinery and equipment for all agricultural activities conducted, or to be conducted, on Parcel A and for all purposes allowed for such access to Parcel A for agricultural activities and as provided in this Agreement.

3. Construction, Maintenance and Repair. Parcel B Owner shall bear the costs of all construction, maintenance and repair of the Access, Ingress, and Egress Easement Area, including but not limited to all maintenance, repair, restoration, improvement, and upkeep of the Easement Area, subject to closings or taking by governmental authorities. In this context, the terms “maintenance” and “repair” shall include, but not be limited to, repairing the surface, adding material, clearing obstructions, grading or scraping the Easement Area, including the access drive from Tollgate Road, trimming brush, trees or other obstructions, and performing any and all other necessary work required to maintain the Easement in a condition that will allow for reasonable and safe access for the easement purpose. Notwithstanding the foregoing, if Parcel A Owner or its tenants, customers, employees, agents, contractors, vendors, or invitees cause damage to said Easement Area, ordinary use, wear and tear excepted, Parcel A Owner shall be wholly responsible for any such damage resulting from any such use, failure, or breach, regardless of negligence.

4. Prohibited Obstructions. Except as expressly identified in this Agreement, the Parties shall keep the Easement free of obstacles at all times. The Parties shall not construct, place, plant, or allow any of the following, whether temporary or permanent, on any part of the Easement: structure, building, retaining wall, overhang, wires, power lines, street light, power pole, yard light, mail box, sign, or trash receptacle; parking or storage of vehicles, goods, or equipment; shrub, tree, woody plant, or nursery stock; or any other obstruction of any kind (collectively referred to as “Prohibited Obstructions”). Either Owner, without notice to the breaching Owner, may remove any Prohibited Obstructions situated on the Easement, without liability for damages and at the sole expense of the breaching Owner.

5. Indemnification. To the fullest extent permitted by applicable law, each Owner hereby indemnifies and saves the other Owner(s), and their respective heirs, successors and assigns, agents, affiliates, mortgagees and employees, harmless from any and all attorneys' fees, court costs, liability, damage, expense, causes of action, suits, claims or judgments arising from personal injury, death, or property damage or economic loss and fines or penalties and occurring on or from such Owner's use of the Easement by such Owner's tenants, guests, successors or assigns, except if caused by the act or neglect of the Owner seeking indemnification, or from the failure to perform the obligations herein set forth and imposed upon the Owner seeking indemnification. In the event of termination of this Easement, the indemnification obligations with respect to matters arising prior to the date of such termination shall nevertheless survive such termination.

6. Termination of Access, Ingress, and Egress Easement. The restrictions and agreements granted herein with respect to the Easement shall terminate upon the earlier of: (i) the entry of a final, non-appealable order by a court of competent jurisdiction finding that the Easement

is abandoned by Parcel A Owner and no longer necessary for the protection of the respective property owners considering the uses then being made of the respective parcels; or (ii) the effective date of termination specified in a written agreement entered into and duly executed by all of the owners of Parcel A and Parcel B for the purpose of terminating the Easement, to the extent that such written agreement is filed for record in the Office of the Recorder of Dubuque County, Iowa.

7. Successors and Assigns. The Easement and the other terms of this Agreement are and shall be deemed to be run with the land and shall be binding upon and shall inure to the benefit of the Parcel A Owner and the Parcel B Owner and their respective successors, successors-in-interest, assigns, and tenants of each of the Parties hereto and shall remain in full force and effect and shall be unaffected by any change in ownership of Parcel B or Parcel A, or any of them, or by any change of use, demolition, reconstruction, expansion, or other circumstances, except as specified herein. If either Party, or their respective successors or assigns, subdivides their respective parcels, then the rights, easements, covenants and restrictions set forth in this Agreement inure to the benefit of and are binding upon each owner of a portion of the respective parcels and the easements created herein are appurtenant to each portion of the respective parcels.

8. Perpetual Duration – No Merger: No merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in any portion of the property upon which the Easement is located to either Party, or its successors or assigns. It is the express intent of the Parties that this Easement not be extinguished by, merged into, modified, or otherwise deemed affected by any other interest or estate in any portion of the property upon which the Easement is located now or hereafter held by such Party, or its successors or assigns.

9. Default. In the event of any default, breach, or violation of the provisions of this Agreement, including any threatened violation, by either Parcel A Owner or Parcel B Owner, their successors and assigns, which remains uncured after thirty (30) days written notice to the defaulting Party from the non-defaulting Party, the non-defaulting Party may seek legal or equitable relief from any appropriate court including, but not limited to, specific performance, injunctive relief or termination of the Easement granted herein. In the event of such default, in addition to any remedies or rights of the non-defaulting Party, the defaulting Party shall pay to the other Party, actual reasonable attorneys' fees and out of pocket expenses incurred by the non-defaulting Party in enforcement of any rights hereunder, which sums shall be payable prior to the defaulting Party being deemed to have corrected any such default. Jurisdiction and venue for disputes arising from this Agreement shall be in the appropriate court in Dubuque County, Iowa.

10. No Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of Parcel A, Parcel B, or the Easement to or for the general public or for any public purpose whatsoever, it being the intention that this Agreement will be strictly limited to and for the purposes expressed herein.

11. Reservation by Parcel B Owner. Parcel B Owner reserves all rights of ownership in and to Parcel B Owner's parcel which are not inconsistent with the Easement.

12. Easement Recorded. This Agreement shall be recorded in the public records of Dubuque County, Iowa, and shall be prior in title to any subsequent deed, mortgage, deed of trust or lease which may hereafter be placed on the Easement Area.

13. Severability. If any clause, sentence, or other portion of the terms, covenants, and restrictions of this Agreement becomes illegal, null, or void for any reason, or be held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.

14. Further Assurances. Each of the Parties agrees that at the request of another Party it will at any time make such further assurances and execute or cause to be executed such further documents and instruments as may be reasonably requested by the other Party in order that this Agreement may be fully performed in accordance with its terms and provisions.

15. Notices. All notices to be given under this Agreement shall be in writing and given by personal delivery, nationally-recognized overnight courier (such as Federal Express) or United States certified mail, return receipt requested, postage prepaid, addressed to the Owners of each of Parcel A and Parcel B.

16. No Waiver. The failure by any Party to insist upon the strict performance by any other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the Agreement's provisions, and, notwithstanding such failure, no Party shall be thereby released from any obligations under the Agreement.

17. Amendments. This Agreement may not be amended or modified in any respect, unless done so in a writing, which is signed by Parcel A Owner and Parcel B Owner, or their respective successors in interest, and duly recorded in the land records in Dubuque County, Iowa.

18. State Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

*Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.*

*(Signatures Appear on the following pages)*

**PARCEL A OWNER**

Dated this 16 day of June, 2022.

THOMAS J. BUDDE, AS TRUSTEE OF  
THE THOMAS J. BUDDE REVOCABLE FAMILY TRUST  
DATED DECEMBER 23, 1999

By: Thomas J. Budde  
Thomas J. Budde, Trustee

STATE OF IOWA, COUNTY OF DUBUQUE, ss:

On this 16 day of June, 2022, before me, a Notary Public in and for said state, personally appeared Thomas J. Budde, as Trustee of the Thomas J. Budde Revocable Family Trust dated December 23, 1999.

(insert notary stamp or seal below)

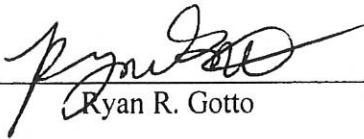
Kristie M. Piffner  
Notary Public in and for said State.



**PARCEL B OWNER**

Dated this 16 day of June, 2022.

RYAN R. GOTTO  
SANDRA M. GOTTO  
870 Park View Drive  
Holy Cross, IA 52053

  
\_\_\_\_\_  
Ryan R. Gotto

  
\_\_\_\_\_  
Sandra M. Gotto

STATE OF IOWA, COUNTY OF DUBUQUE, ss:

On this 16 day of June, 2022, before me, a Notary Public in and for said state, personally appeared RYAN R. GOTTO AND SANDRA M. GOTTO, husband and wife.

(insert notary stamp or seal below)

  
\_\_\_\_\_  
Notary Public in and for said State



**EXHIBIT A**  
"Parcel A" Legal Description

Lot 1 and Lot 3 of Budde Farm Subdivision, Dubuque County, Iowa, according to the recorded plat thereof

**EXHIBIT B**  
"Parcel B" Legal Description

Lot 2 of Budde Farm Subdivision, Dubuque County, Iowa, according to the recorded plat thereof

**EXHIBIT C**  
Access, Ingress, and Egress Easement Area

A Twenty-Four foot (24') wide Access Easement for the benefit of the adjoining lands to said Lot 2 of Budde Farm Subdivision, Dubuque County, Iowa, according to the recorded plat thereof, a copy of which is attached hereto and incorporated by this reference.