

CONSENT TO EASEMENT

THE STATE OF TEXAS §
 §
COUNTY OF ERATH §

The undersigned, **AgTexas, FLCA** (“AgTexas”), executes and delivers this Consent to Easement in favor of **Bank of the West** (“BOTW”), in consideration of BOTW’s extension of credit to Klaas Talsma and wife, Anastasia Talsma (the “Borrowers”).

WHEREAS, AgTexas is currently the beneficiary of two Deeds of Trust (the “AgTexas Deeds of Trust”) securing certain loans to the Borrowers; the AgTexas Deeds of Trust grants liens on the real property described on the attached Exhibit “C” and are recorded in the real property records of Erath County, Texas at Doc. Nos. 2014-03123 and 2018-06707;

WHEREAS, BOTW has agreed to extend the maturity of certain loans to the Borrowers, conditioned upon their agreement to execute and record a new Deed of Trust (the “BOTW Deed of Trust”) granting a lien on their real property described on Exhibit “A” (the “100-acre Tract”);

WHEREAS, the 100-acre Tract currently has no access, and in order to provide access to the 100-acre Tract, the Borrowers have also agreed that the BOTW Deed of Trust shall grant a lien on a road easement, as more particularly described on Exhibits “B,” “C,” and “D” (the “Road Easement”).

NOW THEREFORE, AgTexas hereby consents to the Road Easement, and to the extent necessary, subordinates the priority of the AgTexas Deeds of Trust in favor of the Road Easement, so that in the event of a foreclosure of either (or both) of the AgTexas Deeds of Trust, the Road Easement shall not be affected thereby.

Signed this ____ day of August, 2019.

AGTEXAS, FLCA

By: _____

Name:

Title:

THE STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me by _____,
_____ of Ag Texas, FLCA, in that capacity.

Notary Public, State of Texas

Exhibit "A" (Fee Simple – 100-acre Tract)

A tract of land situated in the G.B. Innis Survey, Abstract No. 420, Erath County, Texas, being a portion of that same tract of land described in a deed to Robert D. Hamilton, recorded in Volume 730, Page 326, Deed Records, Erath County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a 6" Cedar Fence Post, for the south corner of said Hamilton Tract, being the west corner of a tract of land described in a deed to Anastasia Talsma, recorded in Document No. 2014-00096, Deed Records, Erath County, Texas, (hereinafter known as the Talsma Tract 1), and in the northeast line of a tract of land described in a deed to Anastasia Talsma, recorded in Document No. 2014-03122, Deed Records, Erath County, Texas, (hereinafter known as the Takata Tract 2);

Thence the following calls along occupied common lines between the Hamilton Tract, and said Talsma Tract 2:

N. 39° 41' 34"W., 862.08 feet, to a Steel Fence Post;

N. 39° 48' 13"W., 979.76 feet, to a 3/8" Rebar Rod found (Control Monument), for the west corner of the Hamilton Tract;

N. 59° 33' 19"E. (Base Bearing per GPS Observation), 1670.83 feet, to a Tree;

N. 64° 58' 21" E., 132.59 feet, to a 2" Pipe Fence Post;

N. 60° 28' 34" E., 439.35 feet, to a 2" Pipe Fence Post;

N. 58° 48' 19" E., 170.15 feet, to a 1/2" capped "1983" Rebar Rod set (Control Monument);

Thence S. 39° 45' 06" E., 1814.89 feet, through the Hamilton Tract, to a 1/2" capped "1983" Rebar Rod set, a common line between the Hamilton Tract, and said Talsma Tract 1;

Thence the following calls along occupied common lines between the Hamilton Tract, and the Talsma Tract 1;

S. 59° 17' 45" W., 406.98 feet, to a Point in Fence;

S. 59° 23' 44" W. 807.13 feet, to a Point in Fence;

S. 59° 18' 30" W., 1193.81 feet, to the point of beginning and containing 100.00 acres of land.

Exhibit "B" (Road Easement and Related Covenants)

A perpetual, nonexclusive easement and right-of-way (the "Easement") across the real property described in the attached Exhibit C (the "Adjacent Tract") in the location of the existing gravel/dirt road, as depicted in the aerial photo attached as Exhibit D.

This Easement shall be a appurtenant to, and transferable with, the real property described on the Exhibit A attached hereto (referred to as the "100-acre Tract"), because this Easement is essential to, and necessary for, access to the 100-acre Tract from County Road 209 in Hico, Texas. This Easement shall be thirty (30) feet wide and shall be sufficient for Beneficiary's vehicular and pedestrian ingress, egress, and traffic from County Road 209 to the 100-acre Tract. All provisions relating to this Easement shall run with the land and are binding upon, and inure to the benefit of, Grantor, Beneficiary, and their respective heirs, personal representative, successors, assigns, officers, employees, licensees and invitees. This Easement shall not be conveyed or encumbered separately from the 100-acre Tract.

All of the burdens, obligations, and liabilities of Grantor set forth in this Exhibit B shall survive (i) any exercise of the power of sale granted in this Deed of Trust, (ii) any foreclosure of the liens created by this Deed of Trust, and/or (iii) any conveyance in lieu of foreclosure. Following any such foreclosure or conveyance, the rights of Beneficiary in this Easement shall continue to be exercised by the then-record owner of the 100-acre Tract.

Grantor shall maintain the Easement in at least as good condition as on the date hereof. In the event Grantor fails to maintain the Easement in its current condition (or better), then Beneficiary may, at its option, improve the Easement to its current condition, and Grantor shall have the obligation to reimburse Beneficiary for the costs of such improvements to the Easement.

Grantor shall be solely responsible for, and shall timely pay, all ad valorem property taxes, liens, and other levies against either the Easement or the Adjacent Tract.

In the event that Grantor should erect a gate or other structure that prevents or impedes Beneficiary's access to (or across) the Easement or the 100-acre Tract, Grantor shall supply Beneficiary with the appropriate key, combination, or other device that will allow Beneficiary unfettered access through such gate or other structure and to the 100-acre Tract.

Grantor may continue to use the Easement as part of the Adjacent Tract. However, Grantors shall not grant use to this Easement to any third parties without the express written consent of Beneficiary.

Nothing in this instrument shall be deemed to constitute a dedication of the Easement, or any portion thereof, to any governmental entity or to the general public, nor is this instrument to be construed to benefit any third parties (other than Beneficiary and its successors, assigns, officers, employees, licensees and invitees).

Lack of use of the easement shall not terminate this Easement, nor waive any of Beneficiary's rights and remedies under this Easement. This Easement shall not terminate except by written instrument signed by Beneficiary and recorded in the real property records of Erath County, Texas.

Exhibit "C" (Adjacent Tract)

All that certain 256.48 acre tract of land out of the George W. Hoover Survey, Abstract No. 801 and the Wm. Murphree Survey, Abstract No. 565, in Erath County, Texas, being all of that certain 420 acre tract conveyed by C. Elman Stark to H. C. Mercer, Jr. and wife, Vilma Mercer by deed dated July 10, 1971 and recorded in Volume 462, Page 443 of the Deed Records of Erath County, Texas that lies east of the east line of a paved County Road and all that certain 252 acre tract conveyed by Morris B. Couch and W. C. Nunn to H. C. Mercer, Jr. by deed dated September 19, 1967 and recorded in Volume 418, Page 120 of the Deed Records of Erath County, Texas, that lies southeast of the southeast line of said paved County Road and described as follows:

BEGINNING at an iron rod set at a fence corner post at the SE corner of the Wm. Murphree Survey, being the SE corner of the H. C. Mercer, Jr. 92 acre tract described as Second Tract in deed recorded in Volume 418, Page 120 of the Deed Records of Erath County, Texas, for the SE corner of this tract;

THENCE S 59 deg. 15' 34" W along a fence line, 1481.61' to an iron rod set at a fence corner post at the SW corner of said 92 acre tract, for the easterly SW corner of this tract;

THENCE along a fence line along the west line of said 92 acre tract as follows, N 39 deg. 58' 37" W, 1259.68' to a fence corner and N 40 deg. 45' 25" W, 1407.92' to an iron rod set at a fence corner post at the NW corner of said 92 acre tract and in the south line of the H. C. Mercer, Jr. 160 acre tract described as First Tract in deed recorded in Volume 418, Page 120 of the Deed Records of Erath County, Texas for an inner corner of this tract;

THENCE S 60 deg. 25' 06" W along a fence line, passing the SW corner of said 160 acre tract, continuing in all 1396.58' to an iron rod set at a fence corner post in the east line of a paved County Road, for the northerly SW corner of this tract;

THENCE along a fence line along the east line of said road as follows, N 34 deg. 54' 10" W, 1417.0' to an iron rod set at a fence corner, N 39 deg. 40' 32" W, 680.90' to an iron rod set at a fence corner, 13 deg. 30' W, 179.55' to an iron rod set at a fence corner, N 08 deg. 35' 17" E, 344.59' to an iron rod set at a fence corner post for the NW corner of this tract;

THENCE along a fence line along the south line of a County Road as follows, N 55 deg. 04' 50" E, 160.90' to an iron rod set at a fence corner and N 59 deg. 43' 42" E, 2330.5' to an iron rod set at a fence corner post in the east line of the Wm. Murphree Survey, for the NE corner of this tract, from which the calculated NE corner of said survey bears N 39 deg. 06' 38" W, 26.15';

THENCE along a fence line along the occupied east line of the Wm. Murphree Survey as follows, S 39 deg. 06' 38" E, 867.45' to an iron pipe fence corner post, S 39 deg. 14' 28" E, 865.87' to a fence corner post, S 39 deg. 29' 08" E, 859.43' to a fence corner post, S 39 20' 57" E, 983.25' to a fence corner post and S 39 deg. 04' 20" E, 1655.93' to the place of beginning and containing 256.48 acres of land with 255.70 acres being out of the Wm. Murphree Survey and 0.78 acres being out of the Geo. W. Hoover Survey.

SAVE AND EXCEPT THE FOLLOWING DESCRIBED TRACT OF LAND:

All that certain 37.33 acre tract of land out of the Wm. Murphree Survey, Abstract No. 565, in Erath County, Texas, and being part of that certain 256.48 acre tract of land described in Foreclosure Deed from Steve Vandermeer et ux to Members Trust of the Southwest Federal Credit Union, dated January 13, 1999, and recorded in Volume 1165, Page 1050 of the Deed Records of Erath County, Texas, and described as follows:

BEGINNING at an iron rod found at a fence corner post at the SE corner of the Wm. Murphree Survey, being the SE corner of said 256.48 acre tract, the SW corner of a 138.018 acre tract described in deed from Carol Morrison to David E. Jones et ux, dated May 17, 2000, and recorded in Volume 1006, Page 772 of the Deed Records of Erath County, Texas, and in the North line of a 119.3 acre tract described in Deed from Mirlena Herrin to Dorris Herrin Roberson, dated December 29, 1989, and recorded in Volume 783, Page 82 of the Deed Records of Erath County, Texas, for the SE corner of this tract;

THENCE S 59 deg. 12' 32" W (base bearing and TNCZ 1927 NAD) along a fence line along the North line of the Roberson Tract, 1482.60' to an iron rod found at a fence corner post at the most southerly SW corner of said 256.48 acre tract, being in the East end of Erath County Road No. 210 and the SE corner of a 80 acre tract described as first tract in Deed from A. L. Graves et ux to N. E. Little, dated January 15, 1937, and recorded in Volume 249, Page 154 of the Deed Records of Erath County, Texas, for the SW corner of this tract;

THENCE N 40 deg. 03' 26" W along a fence line along the East line of the Little 80 acre tract, at 18.93' pass the NE corner of Erath County Road No. 210, continuing in all 1260.23' to an iron rod set at an iron pipe fence corner post for the NW corner of this tract;

THENCE along a cross fence crossing said 256.48 acre tract as follows, N 65 deg. 40' 44" E, 686.40' to an iron rod set, S 75 deg. 47' 19" E, 277.44' to an iron pipe fence corner post and N 57 deg. 14' 09" E, 660.16' to an iron rod set at an iron pipe fence corner post in the East line of said 256.48 acre tract, for the NE corner of this tract, from which a capped iron rod (No. 1579) at a fence corner post at the NW corner of the Jones 138.018 acre tract bears N 38 deg. 57' 32" W, 651.72';

THENCE S 39 deg. 14' 36" E along a fence line along the West line of said 138.018 acre tract, 1003.88' to the place of beginning and containing 37.33 acres of land.

Exhibit "D"

