



STATE OF MICHIGAN - GRATIOT COUNTY
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 KIMBERLEE M. VANHOOSE
 REGISTER OF DEEDS

OR Liber 01107 Page 00147 - 00154
 Filed for Record in GRATIOT COUNTY
 AUGUST 03, 2022 11:52:24 AM
 KIMBERLEE M. VANHOOSE, REGISTER OF DEEDS
 EASEMENT
 \$30.00 Rec # 87109

EXHIBIT 5

NONEXCLUSIVE EASEMENT AGREEMENT

THIS NONEXCLUSIVE EASEMENT AGREEMENT (“**Agreement**”) is made and entered into on this 1st day of March, 2022, by and between Milk Star, LLC, a Michigan limited liability company whose address is 2161 S. Wisner Rd. Ithaca, Michigan 48847 (“**Grantor**”), and DeSaegher Energy, LLC, a Michigan limited liability company, whose address is 8068 West Buchanan Rd. Middleton, Michigan 48856 (“**Grantee**”), under the circumstances set forth below. *This Agreement is given without consideration and is exempt from the real estate transfer taxes under MCL 207.505(a) and 207.526(a) because the value of the consideration given is less than One Hundred Dollars (\$100).*

WITNESSETH:

WHEREAS, Grantors are the owners of a tract of real estate located in Ithaca Gratiot County, Michigan, the legal description of which is shown on Exhibit A attached hereto and incorporated herein by reference (the “**Grantor Tract**”);

WHEREAS, Grantee is engaged in the construction of a commercial-scale biogas production facility (“**Project**”) and in connection with such Project requires access to a certain building located on the Grantor Tract which is used for sand separation (the “**Building**”);

WHEREAS, the Building is owned by Grantee;

WHEREAS, Grantee is desirous of an easement from Grantors, which easement is critical to the overall access to the Building; and

WHEREAS, Grantor and Grantee are entering into this Agreement to allow Grantees to do certain things upon a portion of the Grantor Tract, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the recitals above and the covenants contained herein and \$1.00, the receipt and sufficiency of which is hereby acknowledged, Grantors and Grantee hereby covenant and agree as follows:

1. Grant of Easement. Grantor, as owner of the Grantor Tract, hereby grants, transfers and conveys to Grantee, an easement upon a certain portion of the Grantor Tract, the description of which is attached hereto as Exhibit B and incorporated herein by reference (the “**Easement**”).
2. Purpose of Easement. The Easement granted by Grantor pursuant to Section 1 above shall be for use by, and for the benefit of, Grantee, its lessees, and their respective sublessees, visitors, contractors, guests, permittees, invitees, agents, successors and assigns. The burdened parcel with respect to the Easement is the Grantor Tract. The Easement shall be for the limited purpose of

accessing the Building located on Grantor Tract. The Easement herein granted shall not terminate or otherwise expire or be extinguished, except as otherwise specifically described in this Agreement or as otherwise agreed to in a written recorded instrument executed by each of the parties hereto, or their respective successors or assigns.

3. Repair and Maintenance; Access. Grantor and Grantee will equally split the cost of maintenance and repair of the Access Road covered under this Easement. Grantee will solely bear the cost of all maintenance and repair to the Building for the duration of this Easement. Except in the case of an emergency, Grantee shall notify Grantors, in writing, of repairs or maintenance required and a corresponding schedule, in advance of any such repairs or maintenance. Grantee shall have all necessary access over portions of the Grantor Tract, outside of the Easement, to avail itself of its rights and to perform its obligations under this Agreement. Grantee covenants to minimize intrusion on the Grantor Tract and Building during any period of actions Grantee takes in its exercise of Grantee's rights granted under this Agreement.

4. Damage to Property. To the extent any damage occurs to the Access Road or Building caused by or arising out of the direct, negligent, intentional or reckless acts of Grantor or Grantee, or their respective agents, lessees, employees, contractors, successors or assigns, then the party hereto who is responsible for the damage shall be solely responsible for the costs and expenses incurred in repairing any of the damaged area.

5. Remedies. In addition to any remedies that may be available at law, temporary, preliminary and permanent injunctive relief may be granted to enforce any provision of this Agreement, without the necessity of proof of actual damage, in the event of an actual breach or violation, or a threatened breach or violation, of any restriction or covenant under this Agreement. Such remedies shall be cumulative and non-exclusive and shall be afforded to any owner of the Grantor Tract and to Grantee. In the event of litigation, the non-prevailing party shall assume and be responsible for the fees, costs and expenses incurred by the prevailing party including, but not limited to, reasonable attorneys' fees and court costs.

6. Indemnification. Grantee hereby assumes full responsibility for any injury to persons and damage to property of any kind or nature caused by, resulting from or in connection with Grantee's exercise of Grantee's rights and performance of Grantee's obligations under this Agreement. Grantee hereby agrees to indemnify, defend and hold harmless Grantors from and against all claims, causes of action, damages, losses, costs (including reasonable attorneys' fees) and liabilities of any nature, which may at any time be assessed against or incurred or suffered by Grantors relating to, or arising out of, a breach of or actions taken under this Agreement by Grantee.

7. Termination.

(a) Notwithstanding any other provision in this Agreement, this Easement will automatically be terminated upon (i) mutual written agreement by the parties, (ii) a material breach of the terms of this Easement which is not cured within 30 days, and (iii) a completion of the Project by Grantee.

(b) Upon Termination, Grantee agrees to sign a termination document to be filed with the Register of Deeds. If Grantee fails to execute such termination document, Grantee agrees that Grantor may seek court enforcement of this provision and if action is taken under this Section 7.(b) all

such filing fees, damages, costs and attorney fees incurred by Grantor to enforce this provision will be paid by Grantee.

8. Capacity. At the time this Easement is being granted, Grantor understands that Grantee will use the Building to process manure from only Grantor's farm.

9. Notices. Unless otherwise specifically provided in this Agreement, all notices or demands given to any party hereto shall be in writing, and shall be (i) personally delivered; (ii) delivered by overnight commercial carrier, or (iii) sent by certified mail, return receipt requested, postage prepaid, and shall be deemed effective upon the earlier of (i) if personally delivered, the date of delivery, (ii) if delivered by overnight commercial carrier, on business day of delivery of such notice, as shown on the sender's delivery receipt from such carrier, or (iii) if mailed, two days following mailing date, as shown on the sender's certification receipt. Notice to any one Grantor shall constitute notice to all Grantors. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given shall be deemed to constitute receipt of the notice. The addresses for notices are as follows:

To Grantors: Milk Star, LLC
Attn: Barthel DeSaegher
2161 S. Wisner Rd.
Ithaca, MI 48847

To Grantee: DeSaegher Energy, LLC
Attn: Barthel DeSaegher
8068 W. Buchanan Rd.
Middleton, MI 48856

The above addresses for notice may be changed by written notice in the manner specified above.

10. Cooperation Between Parties. Grantors and Grantee acknowledge that fulfillment of the terms and conditions of this Agreement, requires mutual and reasonable cooperation and communication between Grantors and Grantee. Time is of the essence for this Agreement. No failure of any party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, shall constitute a waiver of such party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. This Agreement does not, nor does it intend to, create any restriction on use of the Grantor Tract or to confer any obligation with respect to Grantors' usage of the Grantor Tract, except as may expressly be provided herein.

11. Amendments. This Agreement is complete in all of its terms and covenants and may be amended only in a writing signed by Grantors, or Grantors' successors or assigns, as owners of the Grantor Tract and Grantee, or Grantee's successors or assigns.

12. Successors and Assigns. It is hereby agreed that this Agreement shall run with the Grantor Tract, and any conveyances thereof in the future, and shall be binding upon and shall inure to the benefit of Grantors as the owners of the Grantor Tract and Grantee, and their respective successors and permitted assigns, subject to the terms, provisions and limitations herein.

13. Prior Easements of Record. This Agreement is subject to all prior easements of record.
14. Severability. Invalidity or unenforceability of any covenant, condition, term or provision in this Agreement shall not affect the validity and enforceability of any other covenant, condition, term or provision in this Agreement.
15. Applicable Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the state of Michigan.
16. Recording. This Agreement, when executed by the parties hereto, shall be recorded in the Gratiot County, Michigan Register of Deeds.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

GRANTOR:
MILK STAR, LLC

Barthel DeSaegher
Barthel DeSaegher, Member

STATE OF MICHIGAN)
) SS:
COUNTY OF Gratiot)

The foregoing instrument was acknowledged before me this 1st day of March, 2022, by Barthel DeSaegher on behalf of Milk Star, LLC.

Member [^] (SE)

Notary's Signature: Sarah Ewart
Notary's Name: Sarah Ewart
Notary Public, State of Michigan, County of Ingham
My Commission Expires: 9-26-24
Acting in the County of: Gratiot

[Grantors' Signature Page to Nonexclusive Easement Agreement;
Grantee's Signature Page follows]

GRANTEE:

DESAEGHER ENERGY, LLC

By:

Barthel DeSaegher
Barthel DeSaegher, Member

STATE OF MICHIGAN)
) SS:
COUNTY OF Gratiot)

The foregoing instrument was acknowledged before me this 13th day of March, 2022, by Barthel DeSaegher on behalf of DeSaegher Energy, LLC.

Member
(se)

Notary's Signature: Sarah Ewart
Notary's Name: Sarah Ewart
Notary Public, State of Michigan, County of Ingham
My Commission Expires: 9-26-24
Acting in the County of: Gratiot

[Grantee's Signature Page to Nonexclusive Easement Agreement]

Drafted By and When Recorded Return to:
Charles E. Barbieri
Foster, Swift, Collins & Smith, P.C.
313 S. Washington Square
Lansing, MI 48933-2193
(517) 371-8155

Send Subsequent Tax Bills to: Grantor

Tax Parcel No.: 06-018-004-00

EXHIBIT A

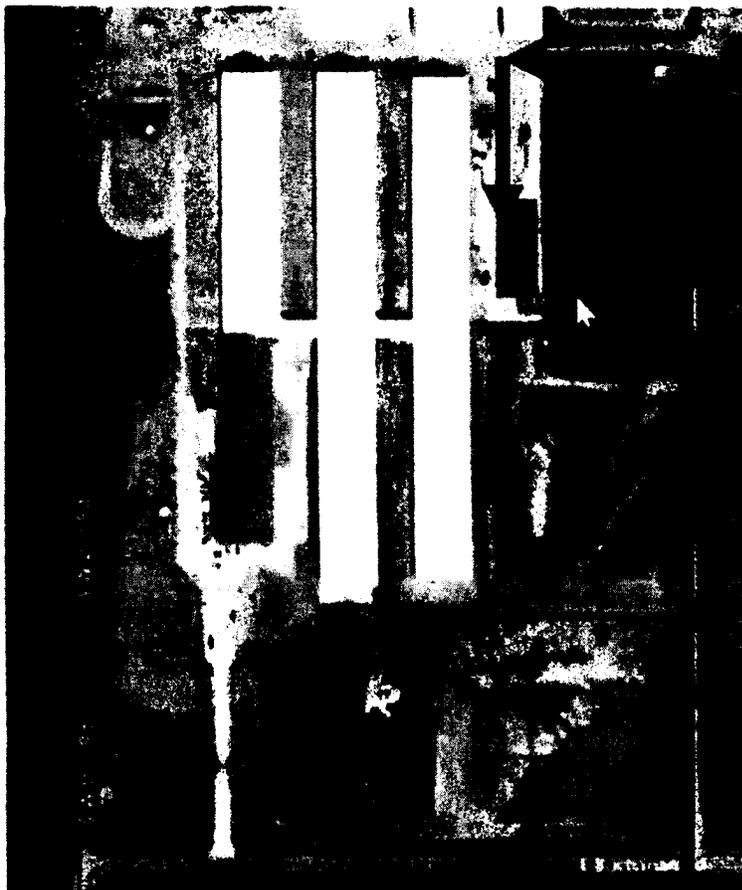
LEGAL DESCRIPTION OF THE GRANTOR TRACT

Parcel # 06-018-004-00

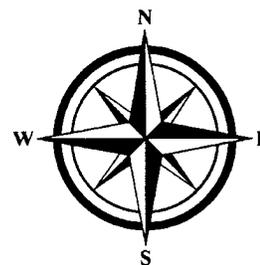
Legal Description: SW FRL 1/4 SEC 18 T10N R1W 84A PA 116 L 1012 P 1300 #29-65974-123101

EXHIBIT B**LEGAL DESCRIPTION OF THE EASEMENT UPON GRANTOR TRACT**

Such access under this Easement shall be on the drive which originates at the southeastern part of the parcel immediately north of E. Buchanan Rd. and goes north along the tree line following the east property line (the "Access Road"). The Easement shall permit Grantee to follow the road north, then due west and due south toward the Building. The Access shall cover the driving pathway, the Building, and five feet around the Building. Grantee shall be permitted to use additional driving areas to access the Building so long as use is reasonable. At no time will this Easement permit access by the Grantee to the farming operations also located on the parcel. All farming operations owned by Grantor on the Grantor Tract are not included in Easement and shall not be accessed for any reason by Grantee.



S. Wisner



E. Buchanan Rd.

56756:00004:6156946-1

56756:00004:6156946-1