

UNILATERAL DECLARATION OF COVENANTS,  
RESTRICTIONS AND CONDITIONS

WELL GUARANTEE AGREEMENT

WHEREAS, \_\_\_\_\_, having an address at \_\_\_\_\_  
(hereinafter referred to as the "Declarant") is the legal or equitable owner of certain real estate in  
New Garden Township, Chester County, Pennsylvania, bounded and described as follows:

BEING all that certain parcel of land, situate in New Garden Township, Chester  
County, Pennsylvania, being known as the "\_\_\_\_ [Name of Project] \_\_\_\_\_", and being  
a portion of Tax Map Parcel No. \_\_\_\_\_, and more specifically  
described in a plan recorded in the Office of the Recorder of Deeds in and for  
Chester County, Pennsylvania, in Plan Book \_\_\_\_\_ Page \_\_\_\_\_, on  
\_\_\_\_\_, 2007 (hereinafter referred to as the "Plan").

WHEREAS, it is the intention of the Declarant, for itself, its successors and assigns, to  
impress certain terms, covenants, conditions, easements, benefits, burdens and servitudes on the  
aforementioned lands for the benefit of Declarant, and at the specific request of New Garden  
Township for the benefit of property owners in the vicinity of [Name of Project].

NOW, THEREFORE, Declarant, intending to be legally bound hereby, applies to the whole  
of the above-mentioned lands, the following:

1. The provisions herein contained shall be construed to be binding upon the Declarant,  
and shall constitute covenants running with the land.
2. Any and all of the provisions herein contained shall be enforceable by Declarant, its  
successors, administrators or assigns, or by New Garden Township, or by any of the affected  
property owners.
3. Should any notes on the Plan conflict with the provisions herein, the provisions of  
this document shall supercede and control.
4. The Declarant shall furnish to the Township financial security in a form satisfactory  
to the Township in the amount of Ten Thousand Dollars (\$10,000.00) to provide a source of water  
for any resident whose well is adversely affected by the wells serving lots in [Name of Project].  
The Declarant will be required to maintain the financial security set forth in this paragraph for a  
period of three (3) years from the date the last original occupancy permit is issued. Thereafter, the  
Declarant may discontinue the financial security and will no longer be bound by the provisions of  
this paragraph. Any funds remaining in escrow at that time shall be returned to Declarant.

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5. During the time Declarant is required to post and continue financial security, Declarant and/or the Township's consultant may monitor wells selected by the Township's consultant within the immediate area of the development provided that the owner of such well provides written authorization to the Declarant or Township to permit entry upon the owner's property for such monitoring. Declarant agrees that if, as a direct result of the pumping or operation of wells in this project, the water supply of any household in existence on the date of this Declaration within one-half (.5) mile of the project is adversely affected by a draw down and decrease in water supply, a problem of quality of water, a problem of the odor of water, and/or any other related problems resulting in a substantial impairment of the reasonable supply of water from the said wells for domestic or agricultural use (not to include irrigation of fields), then, in that event, the Declarant, its successors or assigns, agrees that it will either alleviate the existing problem or problems by increasing the depth of the affected well or taking any other reasonable steps necessary to alleviate the problem, including extending public water, all at no expense to such property owners so as to furnish reasonable quantity and quality of water for domestic or agricultural use.

6. In the event that any area resident makes claim against Declarant with respect to a draw down of water level or pollution of water quality as referenced hereinabove, Declarant shall have ten (10) days from receipt of written notice from any such property owner within which to evaluate any such claim and advise the claimant or claimants of Declarant's position. In the event that Declarant denies responsibility with respect to the affected well, then in that event, Declarant's engineer, along with the engineer for the Township of New Garden, shall agree upon a mutually acceptable third engineer and jointly, said engineers shall evaluate the claim and determine whether or not the operation of Declarant's facilities has resulted in either a reduction in water supply quantity or the quality of same as referenced hereinabove. Said decision shall be made by majority vote of the three (3) engineers and shall be in writing issued within thirty (30) days of the expiration of the ten (10) day period referenced hereinabove. Said arbitration shall be deemed to be common-law arbitration and any decision resulting therefrom shall be final, binding and non-appealable.

In the event that it is determined that Declarant is responsible to undertake corrective measures with regard to any affected well or wells, Declarant shall undertake and complete such corrective work immediately. In the event Declarant fails to act or take steps to remediate within five (5) days, Township may draw down the financial security and take whatever action which it, in its sole reasonable discretion, deems is necessary to cure the problem. In the event that the financial security is not sufficient to cure the problem, Declarant shall be responsible for any additional reasonable expense or cost, including legal, engineering and administrative, which are incurred in curing the problem.

In the event a claim is made by any property owner against Declarant for alleged draw down or pollution of any individual well or wells, if said claim proceeds to arbitration under the procedures reference hereinabove, should the claim be found meritorious, then in that event, Declarant shall bear the cost of any and all services performed by not only Declarant's engineer, but the engineer for the Township of New Garden, as well as the engineer selected by those engineers as a third arbitrator. In the event that any such claim is found to be without merit, then in that event, Declarant shall bear the cost of its own engineer without any obligation with respect to the costs of the engineer of New Garden Township or the third engineer chosen.

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7. In the event any claim is made by a property owner with respect to a substantial depletion in groundwater supply or quality of groundwater against Declarant, New Garden Township may, in its discretion, direct its engineer to preliminarily investigate such claim. If the Township Engineer, upon direction of New Garden Township to investigate, determines that said claim appears meritorious, New Garden Township shall bear the expense of the Township Engineer's time in further pursuing the claim through the arbitration procedure should the ultimate decision of the arbitrators determine that the Declarant is not responsible for the alleged problem. If the engineer for New Garden Township in his preliminary investigation determines that the claim does not appear meritorious and the property owner determines to continue with its request for arbitration, then in that event, the property owner shall be responsible for any subsequent expenses incurred with respect to the services of the New Garden Township Engineer should the claim be denied by the Board of Arbitrators. In either event, however, should the claim of the property owner be denied by the arbitrators, the claimant shall be responsible for the costs involved with the services of the third engineer/arbitrator. If New Garden Township determines not to authorize its engineer to conduct a preliminary investigation, then in that event, the property owner may employ the Township Engineer and proceed to process his claim. However, in such event, New Garden Township shall not be responsible for the payment of any fees or costs whatsoever and payment of all costs and fees of the Township Engineer, together with all other costs shall be assessed in accordance with the terms hereof.

8. If for any reason the aforementioned financial security is reduced for any reason whatsoever, then in that event, Declarant shall promptly replenish the said financial security so as to maintain the security at the Ten Thousand Dollars (\$10,000.00) limit as hereinbefore established.

9. It is understood and agreed by the Declarant that nothing contained herein shall be construed to impose any responsibility on New Garden Township, or its successors or assigns, for the construction, repair or maintenance of any well provided for by the terms of this Agreement or of any liability hereunder to the Declarant or any other party benefited by this Agreement in excess of the balance, from time to time, of the escrow fund established hereinabove, it being the express understanding of the parties hereto that the limit of the interest of New Garden Township is that of a stake holder and that nothing contained in this Declaration shall obligate or otherwise make New Garden Township responsible for any performance or lack of performance by the Declarant of its obligations hereunder. The Declarant expressly agrees to protect, indemnify, defend and hold New Garden Township harmless from and against all and any liability, expense or damage of any kind or nature (including reasonable attorneys fees) and from any and all suits, claims or demands arising out of this Declaration or in connection therewith.

10. The provisions of this instrument shall be severable. If any provision of this instrument is found to be invalid, unenforceable, unconstitutional or void, the remaining provisions of this instrument shall, nevertheless, remain valid and binding.

11. A copy of this Agreement is intended to be filed in the Office of the Recorder of Deeds in and for Chester County.

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IN WITNESS WHEREOF, the Declarant hereto, intending to be legally bound, has hereunto set its hand and seal the day and year first above written.

DECLARANT:

[Corporation Name]

By: \_\_\_\_\_

Name:

Title:

Attest: \_\_\_\_\_

Name:

Title:

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