

**MONITORING WELL AGREEMENT**

**THE STATE OF TEXAS**

**UPPER TRINITY GROUNDWATER CONSERVATION DISTRICTS**

**PARTIES TO AGREEMENT:**

**WELL OWNER:** \_\_\_\_\_

**WELL OWNER'S PROPERTY:** That certain \_\_\_\_\_ County, Texas, associated with street address. \_\_\_\_\_

**DISTRICT:** Upper Trinity Groundwater Conservation District

**District's Mailing Address:** P O Box 1749  
Springtown, TX 76082

**AGREEMENT:**

**ARTICLE I - TERM**

**1.1 Date of Commencement.** This Monitoring Well Agreement between the Well Owner and the District (the "*Agreement*") is effective as of April 15, 2019 (the "*Effective Date*").

**1.2 Term of Agreement.** The Agreement shall commence on the Effective Date and terminate upon the expiration of ninety-nine (99) years after the Effective Date unless terminated earlier according to provisions herein (the "*Term*").

**1.3 Early Termination.** The Well Owner and the District agree that the Well Owner and the District may terminate this Agreement with respect to an individual Well or with respect to all Wells (a) at any time after the Effective Date of this Agreement by providing written notice to the other party at least one hundred twenty (120) days prior; or (b) at any time by mutual written agreement of the parties. In the event of either such termination of (a) or (b) above (the "*Early Termination*"), the Well Owner may request in writing that the District properly cap the Well, or the Well Owner may begin or continue to use the Well if allowed to do so by all applicable laws and regulations, including the rules of the District. All equipment belonging to or installed by the District at the Wells, if any, shall at all times belong to the District and, in the event of Early

Termination of this Agreement or expiration of the Term, the Well Owner shall allow the District one hundred twenty (120) days from either the notice of termination or expiration of Term, as applicable, to remove any such equipment from the Wells. Upon any termination, the District agrees to restore the site to the condition as of the Effective Date to the extent practicable.

## ARTICLE II – DISTRICT USE AND PURPOSE OF WELLS

**2.1 Use and Purpose of Wells.** The Well Owner authorizes the District to access one or more of Well Owner’s water well(s) located in \_\_\_\_\_ County, Texas, at the following GPS coordinates: \_\_\_\_\_ latitude and \_\_\_\_\_ longitude, also known as Upper Trinity Groundwater Conservation District well number \_\_\_\_\_ (individually or collectively herein referred to as the "**Well**" or "**Wells**" as applicable) for any one of the following purposes: (a) monitoring the groundwater level for inclusion in the District’s Water Well Monitoring Program (the "**Program**") as further described in sub-paragraph A below, (b) collecting water quality samples, or (c) other studies of groundwater that the parties may agree upon in the future (collectively (a) (b) and (c) above, the "**District Uses**").

- A. **Description of Program.** A monitoring probe may be placed in the Wells below the static water level. If so, a cable will run from the probe to the surface. The probe will measure and store water level changes daily. The District will download the readings on a periodic basis. The District may install equipment at the Wells to send the information to the District’s computer on a “real-time” basis. The District may physically measure the water levels in the Well by means of a measuring tape or other equipment suited for that purpose. The District may collect water samples from the Well for water quality analysis, and conduct other studies mutually agreeable to the parties which further the knowledge of groundwater conditions in the local area.
- B. **Prior to the installation of the monitoring probe,** the District may hire a company that has the equipment to video the well from the top of the casing to the total depth of the well. In addition, the same company may run a geophysical log on the well which will identify the layer and aquifer the water is from. Copies of all of the information collected from the well will be provided to the well owner.
- a. **Wells containing unused equipment:**  
If it is found that any equipment (pipe, pump, electric cable etc.) is currently present in the well, it may need to be removed in order to video the well and run instruments in the well to produce a geophysical log. The District will hire a licensed well contractor (water well driller or pump installer) to remove the equipment. If you, the well owner, have a contractor you prefer to perform this work, please let the District know. Otherwise, we will select a contractor that works within the area the well is located. All of the costs discussed above will be paid by the District.

District Staff plans to be on-site for the removal of the equipment,

however should staff be unable to be present the District will work with the licensed contractor to promote due diligence and proper workmanship. Due to the unknown condition of the equipment in the well, the age of the equipment, and the fact that the well is currently unused, the District and the owner agree that any recoverable equipment and the well itself have no monetary value.

As previously mentioned, the well owner and the District agree that the District will remove all recoverable equipment in the well. If during the removal of the equipment it is discovered that there is equipment in the well that may be unrecoverable by conventional methods and the contractor believes the equipment can be removed with a minimal expense and effort, using an alternative method, the contractor will be authorized to attempt to remove it. Otherwise, the equipment will be left in the well.

If the well owner wants the equipment that is removed from the well, the District will have the contractor stack the equipment near the well or load the equipment on a trailer provided by the well owner at the time of removal. If the well owner does not want the equipment, the District will dispose of it.

After the recoverable equipment has been removed and the video and geophysical log work is complete, the District will provide the well owner with a description of the condition of the well in regard to reequipping the well to produce a usable supply of water.

- b. If the well owner decides to reequip the well within the first five (5) years after the equipment is removed, the well owner will repay the District a portion of the cost of removal on a pro rata basis. The pro rata basis will be the cost of removal spread over a five-year time frame. If the well owner reequips the well and the well can continue to be used satisfactorily by the District as a monitoring well equipped with a monitoring probe, the cost of removal may be waived by the District.

**C. Data from Program.** The District shall: (i) make available to the Well Owner at no cost a copy of any logs obtained from the Well; (ii) make available to the Well Owner data gathered from the Well; and (iii) use the Well solely for the Program and District Uses including monitoring groundwater quality and/or quantity, and any other purposes which advances the understanding of local groundwater conditions that are mutually agreeable to the parties, and shall not use the Well for any other private or commercial purpose without the written consent of the Well Owner.

**2.2 Non-Interference.** Well Owner shall allow District to access the Wells for the District Uses as long as the District Uses do not materially interfere with the Well Owner's use of the Wells.

**2.3 Costs of District Uses.** The District shall pay any and all costs associated with the installation, operation and maintenance of the equipment used in the Program of the District or for any District Uses. These costs may include the installation of a water level monitoring probe and any mobile radio or telephone equipment (telemetry) used to relay the water level information to the District's office, and all costs associated with the installation of the telemetry equipment and service. The costs may also include the physical measurement of water levels or water quality sampling by representatives of the District.

**2.4 Restoration.** The District will restore the surface of any roadway or surface damaged, if any, during the process of accessing or equipping the Well or providing utility service to the Well to the extent reasonably practicable, at District's sole cost and expense.

**2.5 Regulatory Compliance.** The District agrees to comply at all times and at its sole cost and expense with all applicable federal, state and local laws, rules, regulations and safety standards, including the rules of the District, in connection with the District Uses.

**2.6 Well Owner Activities.** The Well Owner agrees that if the Well Owner needs to drill a water well, install a septic tank, septic tank drain field or any other activity that could disrupt the District Uses, including groundwater data collection from the Well, the Well Owner shall make diligent effort to avoid unreasonable interference with the Program and District Uses. If the Well Owner intends to pull or rework the Well or its pump, the Well Owner shall make diligent effort to protect and maintain any air line installed in the well for monitoring purposes. If the Well Owner intends to engage in any such activities or projects, the Well Owner shall notify the District in advance in an effort to minimize any interference with the Program or District Uses.

**2.7 Parties to Carry Out Program.** At District's option, District's employees, contractors, or agents may perform activities in furtherance of the Program or the District Uses.

### **ARTICLE III – DISTRICT ACCESS TO WELLS AND UTILITIES**

**3.1 Access.** The District shall have the right of pedestrian and vehicular ingress and egress over, across and upon Well Owner's Property and during the hours of 8:00 o'clock A.M. and 5:00 o'clock P.M. Monday through Friday subject to reasonable regulation by the Well Owner, for the purposes of accessing the Well and for operating, repairing, inspecting, maintaining, replacing, and removing equipment in the Well.

**3.2 Utilities.** The District shall have the right to access utility lines in order to provide any telecommunications and electrical service to the Well as necessary for the District Uses. If utility lines are not accessible to the Well, District may extend such utilities as necessary at District's sole cost and expenses, subject to the consent of Well Owner as to the location.

### **ARTICLE IV - MISCELLANEOUS**

**4.1 Hold Harmless.** To the extent permitted by law, the District agrees to hold the Well Owner harmless from and against and for all liability, claims, and costs ("**Claims**") which either

party may suffer or sustain or become liable for by reason of any accidents, damages or injuries to persons, property, or employees of District or of any other parties in any manner arising from the activities of District in execution of the District Uses.

**4.2 Matters of Record.** The rights granted under this Agreement are subject to all encumbrances of record in the county public records or which are visible and on the ground in a manner that a corrected survey would reveal.

**4.3 Binding Effect.** This Agreement and all of the terms, provisions and obligations hereof shall inure to the benefit of and be binding upon Well Owner and District and their respective administrators, successors and assigns.

**4.4 Assignment.** District may not assign its rights or obligation under the Agreement.

**4.5 Ownership.** Notwithstanding any other term, provision or condition of this Agreement, this Agreement does not grant to the District, or confer upon the District, any ownership interest, easement or property right, in or to the Well Owner Property. The Well Owner specifically retains all rights of ownership and incidents of ownership in and to the Well Owner Property. The Well Owner expressly reserves for itself, its successors or assigns, all ownership rights to the Well Owner Property.

**4.6 Choice of Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas without regard to its conflict of law principles. Certain obligations of the parties created under this Agreement shall be performable in \_\_\_\_\_ County, Texas. Both parties agree that any and all disputes shall be resolved by a court of competent jurisdiction in \_\_\_\_\_ County, Texas.

**4.7 Amendment.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

**4.8 Severability.** In the event one or more provisions contained in this Agreement shall be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

WELL OWNER: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
Printed Name:     *First*    *Last*                    *Date*

UPPER TRINITY GROUNDWATER  
CONSERVATION DISTRICT

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_