

This is a sample conservation easement approved by NRCS in 2016, incorporating the 2015 Minimum Deed Terms for the Agricultural Conservation Easement Program. The match funder was the State of California. The subject property qualified under the "Grasslands of Special Significance" criteria. The easement was submitted to NRCS along with the annotations shown, referencing each Minimum Deed Term for ease of NRCS review. Contact Susanna Danner at Eastern Sierra Land Trust for questions on the document. susanna@eslt.org, 760.873.4554

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Eastern Sierra Land Trust
P.O. Box 755
Bishop CA 93515

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GRANT DEED OF AGRICULTURAL CONSERVATION EASEMENT

This Grant Deed of Agricultural Conservation Easement ("**Easement**") is made on this _____ day of _____ 20__, by _____, (jointly, "**Grantor**"), to the **EASTERN SIERRA LAND TRUST**, a California nonprofit public benefit corporation, having an address at P.O. Box 755, Bishop, CA 93515 ("**Grantee**"). As a provider of funds for this transaction, the United States of America ("**United States**") acting by and through the United States Department of Agriculture, Natural Resources Conservation Service, acting on behalf of the Commodity Credit Corporation, has certain rights hereunder as set forth herein.

RECITALS

A. **PROPERTY.** Grantor is the sole owner in fee simple of that certain ranch property located in ___ County, California, legally described in Exhibit A ("**Legal Description**") attached to this Easement, consisting of approximately ___ acres of land and commonly known as the "_____ Ranch," together with buildings and other improvements (the "**Property**"), also identified by assessor parcel numbers _____. The Property is generally located as shown on Exhibit B-1 attached hereto ("**Property Map**"). The existing buildings and improvements on the Property are shown within the approximately 15-acre farmstead area depicted in Exhibit B-2 ("**Farmstead Area**"), also attached to this Easement. Except as shown in Exhibit B-2, the Property is irrigated seasonal pasture and upland rangeland, and has been classified as a grassland of special significance by the Natural Resources Conservation Service, U.S. Department of Agriculture. The Property contains the soil quality, growing season, and moisture

supply needed for sustained livestock production. For the purposes of this Easement, the Property includes any and all water and water rights beneficially used or permitted for development on the land described in Exhibit A that are owned by Grantor, and all ditches, headgates, springs, reservoirs, water allotments, water shares and stock certificates, contracts, units, and wells, together with any associated easements and rights of way (the “**Water Rights**”). The Water Rights include surface water rights and groundwater rights of any nature, including appropriative, prescriptive, contractual or other water rights appurtenant to or used on the Property, including, but not limited to, those water rights or interests specifically described on Exhibit C attached hereto. The Water Rights are critical components of the Conservation Values (described below).

i. Grassland of Special Significance. As part of the Conservation Values, this Easement protects approximately ___ acres of grassland which is approximately ___ % of the Property and habitat for Bi-State greater sage-grouse, mule deer, songbirds, and raptors.

ii. Habitats. The Property possesses rangeland, cattle grazing land, including irrigated and unirrigated pasture and associated ranching values, wet meadows, aspen stands, high desert sagebrush scrub habitat areas supporting mule deer, mountain lion and the greater sage-grouse, grassland, wildlife habitat, including riparian habitat values, and watersheds, open space and scenic values. The Property includes approximately ___ acres of irrigated meadow pasture, more than ___ acres of which have been classified as wetlands. Riparian corridors along the three creeks on the property include willow riparian scrub and aspen groves. Upland portions of the Property include sagebrush/bitterbrush vegetation important to wildlife and pinyon juniper forested hillslopes. The Property contains portions of ___ Creek.

iii. Location. The Property is located in the scenic ___, with the nearest incorporated town, being ___, ___ miles to the south. ___, an unincorporated town, is located approximately ___ miles to the north. The Property bounds on ___, an officially-designated State Scenic Highway. The Property is surrounded by other privately owned agricultural lands to the ___. To the ___ the Property boundary is adjacent to lands managed by the U.S. Bureau of Land Management (BLM) Bishop Field Office. The Property’s location between agricultural and publicly owned properties contributes to protection of the agricultural sustainability, scenic and habitat values, and resource connectivity of the ___.

iv. Water Resources. The Property has significant water resources that significantly benefit the natural habitat, grazing uses, grassland restoration and conservation uses of the Property. Grantor is the sole owner of those certain adjudicated water rights as set forth in ___, which adjudicated water rights are described in Exhibit C attached hereto. These water rights have historically been used and continue to be used for flood irrigation of meadow pastures using historic irrigation ditches located and described as set forth in the Baseline Documentation Report referred to Section 2, below.

v. Sage-Grouse and other Wildlife. The Property is composed of irrigated meadows with emergent wetlands present and upslope areas composed of high desert sagebrush scrub and woodland ecosystems. In addition to riparian and wetland protection, critical habitat for several species will be preserved by this Easement. The Property provides a critical migration corridor, holding areas, summer range, and fawning habitat for the ___ mule deer herd. The Property

provides critical summer brood rearing habitat for the Bi-State population of greater sage-grouse (*Centrocercus urophasianus*) and has been identified as a conservation priority in public documents and reports including, but not limited to, the Bi-State Action Plan for Conservation of the Greater Sage-Grouse Bi-State Distinct Population Segment dated March 15, 2012. The California Audubon Society has identified ___ as an “Important Bird Area,” in part of a worldwide effort to identify and protect sites deemed most critical to birds.

B. **MISSION.** Eastern Sierra Land Trust works with willing landowners to preserve vital lands in the Eastern Sierra region for their scenic, agricultural, natural, recreational, historical, and watershed values.

C. **FEDERAL FUNDING.** The Agricultural Conservation Easement Program, 16 U.S.C Section 3865 et seq., facilitated and provided funding for the purchase of the Easement on the Property for the purpose of protecting grazing uses and related Conservation Values by restoring and conserving the Property. Grantor, Grantee, and the United States, acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”) on behalf of the Commodity Credit Corporation (“CCC”), acknowledge that the Easement is acquired by Grantee to protect grazing uses and related conservation values by restoring and conserving the Property. Baseline conditions of the Property are set forth in a Baseline Documentation Report, a copy of which is maintained in the files of Grantee. This Easement gives the United States certain rights as outlined herein for the purpose of forever conserving the grazing uses of the Property and its value for resource preservation and as open space.

D. **STATE FUNDING.** The Budget Act of 2014 appropriated \$130 million from the California Air Resources Board’s California Climate Investment Fund, also known as the Greenhouse Reduction Fund, to develop and implement the Affordable Housing and Sustainable Communities Program (“Program”). Beginning in FY 2015-16, 20 percent (20%) of California Climate Investment Fund’s annual proceeds go to the Program. The goal of the Program, which is administered by the Strategic Growth Council (“Council”), is to reduce greenhouse gas emissions through projects that implement land use, housing, transportation, and agricultural land preservation practices to support infill and compact development. Projects eligible for funding include the acquisition of agricultural conservation easements to protect agricultural lands that are under pressure of conversion to nonagricultural uses.

On behalf of the Council and the Natural Resources Agency, the Department administers the Sustainable Agricultural Lands Conservation Program (“SALCP”). SALCP supports the Program’s goal by investing in the acquisition of agricultural conservation easements on property at risk of conversion thereby reducing greenhouse gas emissions. These acquisitions can support a healthy agricultural economy, provide food security, encourage smart growth, and ensure agricultural and open space remains available.

As administrator of SALCP, the Department of Conservation (hereinafter alternatively referred to as the “Department” or “Department of Conservation”) has made a grant of funds to Grantee from the California Climate Investment Fund to support the acquisition of this Easement. These funds represent a substantial investment by the people of the State of California in the long-term conservation of valuable agricultural land and the retention of agricultural land

in perpetuity. The Property and this Easement have met the mandatory eligibility criteria and certain selection criteria and meet multiple natural resource conservation objectives from the Sustainable Agricultural Lands Conservation Program Guidelines and Request for Grant Applications. The rights vested herein in the State of California arise out of its statutory role in fostering the conservation of agricultural land in California and its role as fiduciary for the public investment represented by the California Climate Investment Fund.

E. **CLEARLY DELINEATED GOVERNMENTAL CONSERVATION POLICIES.**

The conservation purposes of this Easement are recognized by, and the grant of this Easement will serve, the following clearly delineated governmental conservation policies:

The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. section 4201 et seq., whose purpose is “to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government and private programs and policies to protect farmland;”

California Civil Code at Part 2, Chapter 4, (commencing with section 815), which defines and authorizes perpetual conservation easements;

California Constitution Article XIII, section 8, California Revenue and Taxation Code, sections 421.5 and 422.5, and California Civil Code section 815.1, under which this Easement is an enforceable restriction, requiring that the Property’s tax valuation be consistent with restriction of its use for purposes of food and fiber production and conservation of natural resources;

Section 10200 et seq. of the California Public Resources Code, which creates the California Farmland Conservancy Program within the Department, provides Department authority for agricultural land protection, and eligibility for funding under SALCP to be used for the purpose of acquiring agricultural conservation easements on property at risk of conversion to nonagricultural uses, thereby reducing greenhouse gas emissions;

Section 51220 of the California Government Code, which declares a public interest in the preservation of agricultural lands, by providing that “agricultural lands have a definitive public value as open space” and “that the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest;”

California Food and Agriculture Code Section 821 states that one of the major principles of the State's agricultural policy is "to sustain the long-term productivity of the State's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources;"

The California General Plan law, section 65300 et seq., and section 65400 et seq. of the California Government Code, and the ___ County General Plan, which includes as one of its goals to preserve and protect agricultural and grazing lands in order to promote both the economic and open space values of those lands;

The ___ County General Plan, which documents in its Land Use Element the countywide policy to “maintain or enhance the integrity of critical wildlife habitat in the county by limiting development in those areas;” and,

Resolution No. ___, approved by the Board of Supervisors of ___ County on the ___, 2016, which expresses support for the acquisition of this Easement and finds that the acquisition is consistent with the County’s General Plan and the Resolution’s findings.

F. **QUALIFIED ORGANIZATION.** Grantee is a California publicly supported nonprofit organization within the meaning of California Public Resources Code section 10221 and California Civil Code section 815.3, and is a tax exempt and “qualified organization” within the meaning of section 170(h)(3) of the Internal Revenue Code. As provided in its Articles of Incorporation, Grantee’s primary purposes are to solicit, receive and administer property (especially interests in real property) and funds, in order to permanently preserve, protect and enhance land in Mono County, Inyo County, and Alpine County, California and in the state of Nevada; and to manage such lands for the natural, scenic, historical, agricultural, forested, or open-space values, including restoration if necessary; and to protect water and air quality, agricultural resources, open space, archeological remains, and wildlife corridors and wildlife habitats, including native vegetation.

NOW, THEREFORE, for the reasons given, and in consideration of their mutual promises and covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor voluntarily grants and conveys to Grantee, and Grantee voluntarily accepts, a perpetual conservation easement, as defined by sections 815-816 of the California Civil Code, and of the nature and character described in this Easement for the purpose described below, and agree as follows:

1. *Conservation Purpose; Conservation Values.*

The purpose of this Easement is to preserve and protect grazing uses and related Conservation Values (defined below) in perpetuity by restoring and conserving the Property, and preventing any use that will impair the grazing uses or Conservation Values (the “**Conservation Purpose**”).

The Property is a natural area that consists of “a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,” as that phrase is used in 26 U.S.C. § 170(h)(4)(A)(ii) and applicable regulations. The Property includes working agricultural lands and productive grasslands that support irrigated and non-irrigated pastureland and upland range/grazing land, that are of great importance to Grantor, Grantee, the people of ___ County, and the people of the State of California. The particular Conservation Values intended to be preserved and protected for the public benefit under this Easement include, without limitation, grazing and livestock production, healthy grasslands, wet meadows, aspen stands, high desert sagebrush scrub habitat areas supporting sagebrush steppe habitat and its associated native plants and animals; sage-grouse brood rearing habitat; unfragmented open space corridors for the unimpaired passage of wildlife; the watershed functions of maintaining water quality and quantity for the ___ River, including its tributaries of ___ Creek, ___ Creek, and ___ Creek and spring sources; functioning riparian ecosystems and associated native flora and fauna; functioning wetland ecosystems and

associated native flora and fauna; utilization by migratory ungulates including mule deer; and natural communities that provide habitat for native wildlife species including, without limitation, Bi-State greater sage-grouse, mule deer, amphibians, songbirds, raptors, waterfowl, and many species of common and rare plants and animals.

The attributes of the Property described in this Section 1, the Recitals, and in the Baseline Documentation Report referenced below are collectively referred to in this Easement as the “**Conservation Values.**”

2. Baseline Documentation Report.

The natural, agricultural and other characteristics of the Property, its current use and state of improvement, are documented and described in a baseline documentation report, dated as of _____ (“**Baseline Documentation Report**”), prepared by Grantee with the cooperation of Grantor and incorporated herein by reference. Grantor and Grantee acknowledge, as set forth in Exhibit D attached hereto, that each has received and will retain a duplicate original of the Baseline Documentation Report and that the Baseline Documentation Report is complete and accurate as of the date of this Easement. The Baseline Documentation Report may be used to establish that a change in the use or condition of the Property has occurred, but its existence shall not preclude the use of other evidence to establish the condition of the Property as of the date of this Easement. In case of any conflict or inconsistency between the terms of the Easement and the Baseline Documentation Report, the terms of this Easement shall prevail.

3. Agricultural Land Easement Plan.

As required by section 16 U.S.C. 3865a, agricultural production and related uses of the Property are subject to an Agricultural Land Easement Plan (“ALE Plan”), as approved by NRCS, to promote the long-term viability of the land to meet the Conservation Purpose. The ALE Plan must also be approved by Grantor, Grantee, and the Department. Grantor agrees the use of the property will be subject to the ALE Plan on the Property.

This ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this Easement. Grantee and Grantor agree to update the ALE Plan in the event the agricultural uses of the Property change. A copy of the current ALE Plan is kept on file with the NRCS and Grantee.

Grantee must take all reasonable steps to secure Grantor’s compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the Plan, NRCS may notify Grantee. NRCS will give Grantee and Grantor a reasonable amount of time, not to exceed one hundred eighty (180) days, to take corrective action. If Grantee fails to enforce the terms of the Easement, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

4. Written Advisement; Grantee Approval.

(a) *Written Advisement.* As described in this sub-section, below, and as set forth elsewhere in this Easement, certain actions by Grantor will require “Written Advisement” to Grantee. Written

Advisement to Grantee is required for activities: (i) where expressly required in this Easement; (ii) requiring a building, grading, or zoning permit or environmental regulatory review or permit; or (iii) that are likely to significantly impair the Conservation Values. Grantor shall give at least sixty (60) days' advance written notice to Grantee in accordance with Section 21 ("**Written Advisement**"). The Written Advisement must provide Grantee with adequate information (including, but not limited to, scope, design, location, and timetable), documents and plans so as to enable Grantee to confirm compliance with this Easement and enable Grantee to keep its records current.

(b) *Grantee Approval.* Where Grantor is required to obtain Grantee's permission or approval for a proposed action hereunder, said permission or approval (i) shall not be unreasonably delayed by Grantee, (ii) shall be sought and given in writing, with copies of all documents to be provided to the Department and the United States, and (iii) shall in all cases be obtained by Grantor prior to taking the proposed action. In seeking approval, Grantor will provide Grantee with adequate information, documents and plans, so as to enable Grantee to confirm compliance with this Easement and to keep its records current. Grantee may grant permission or approval to Grantor only where Grantee, acting in Grantee's sole and absolute discretion and in good faith, determines that the proposed action is consistent with the Conservation Purpose and will not significantly impair the Conservation Values. If, in the judgment of Grantee, the proposed use or activity should not be permitted in the form proposed, but could be permitted if modified, then Grantee's response may propose to Grantor suggested modification(s) and/or conditions that would permit the use or activity. If Grantor disagrees with the Grantee's decision, the parties may agree to mediate the disagreement.

5. *Permitted Uses and Actions; Actions Permitted without Prior Approval of Grantee as long as Conducted in Manner Consistent with this Conservation Easement.*

The following uses and actions are permitted without the prior approval of Grantee as long as they are conducted in a manner consistent with this Easement, provided that Grantor shall give Grantee advance Written Advisement where expressly required and as otherwise set forth in Section 4(a), and provided that all such uses and actions are conducted in compliance with all Applicable Laws as defined in Section 11(c).

Except as permitted in this Easement, all other construction, erection, installation or placement of buildings, structures, or other improvements on the Property is prohibited.

Impervious surfaces, as defined in Section 7(n), including, but not limited to, residential buildings, agricultural buildings (with and without flooring), and paved areas on the entire Property, both within and outside the Farmstead Area, are subject to the impervious surface limitation set forth in Section 7(n).

(a) *Preserving Agricultural Uses and Agricultural Production.* No uses will be allowed that decrease the Easement's protection for the grazing uses and related Conservation Values or adversely impact the restoration or conservation of the grassland, and related Conservation Values of the Property. The production, processing, and marketing of livestock and agricultural products compatible with restoration and conservation of grassland, grazing uses, and related Conservation Values is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan described in Section 3.

(b) *Grassland Uses of the Property.* Grantor is allowed to graze, hay, harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire pre-suppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and the Conservation Purpose of this Easement. The term "common grazing practices" means those practices customary to the region where the Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Property. Grantor must not hay, mow or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified by Grantee or NRCS. Determinations of nesting seasons for birds whose populations are in significant decline will be made in writing to Grantor, or set forth within the ALE Plan for the Property. Grantor may conduct grazing, pasturing, and watering of cattle, horses, and other domestic livestock typically found in the geographical area of the Property for commercial, personal, or habitat management purposes, and other activities reasonably incidental thereto, or as allowed in the ALE Plan, provided: (i) such common grazing practices are conducted consistent with the ALE Plan in a manner that maintains or improves, but does not impair or diminish, the conditions of the Property as documented in the Baseline Documentation Report; (ii) such common grazing practices may not cause significant deterioration of stream banks, riparian vegetation, or water quality or cause significant degradation of topsoil quality; and (iii) all such common grazing practices shall be conducted in compliance with all Applicable Laws, rules, and regulations.

(c) *Fences.* Existing fences and gates may be maintained and replaced only in accordance with the ALE Plan and must be consistent with species management requirements. New fences and gates may be built, repaired or replaced on the Property only in accordance with the ALE Plan, and must be consistent with species management requirements. To allow for wildlife movement on those portions of the Property outside the Farmstead Area, all new or replaced fences must be wildlife-friendly as determined by NRCS. Notwithstanding the above, new wildlife-impermeable fences may be built, repaired and replaced around and within the Farmstead Area.

(d) *Agricultural Structures and Improvements.* Existing agricultural structures and improvements, as shown in Exhibit B-2 and more fully described in the Baseline Documentation Report, may be repaired, removed, reasonably enlarged, and replaced at their current locations for agricultural purposes without further permission from Grantee. All new buildings and other structures and improvements to be used solely for agricultural production on the Property, including barns, equipment sheds, corrals, loading chutes, and improvements to be used for livestock production purposes must be located within the Farmstead Area.

(e) *Single-Family Dwellings.* The existing single-family dwelling shown in Exhibit B-2 and described in the Baseline Documentation Report may be maintained, repaired, enlarged, removed, relocated, and replaced, not to exceed a footprint of three thousand (3,000) square feet, entirely within the Farmstead Area. One additional single-family dwelling, with a footprint not to exceed two-thousand five hundred (2,500) square feet, may be constructed entirely within the Farmstead Area with Written Advisement to Grantee. Such additional single-family dwelling may be referred to as farm labor housing, secondary housing, or an "Accessory Dwelling Unit" to comply with ___ County requirements. Once the additional single family dwelling is constructed, it may be maintained, repaired, removed, relocated, and replaced. Grantor may not

combine the square footage of the two dwellings into one dwelling. Customary ancillary residential uses, including, but not limited to, swimming pool, patio, tennis court, gazebo, and garage, may be constructed only within the Farmstead Area. Except as described in Section 5(n), no other new residential structures (including travel/residential trailers or mobile homes of any kind) may be constructed or placed on the Property. Notwithstanding the foregoing, temporary housing (wall tents, yurts, travel/residential trailers, or mobile homes) used to house ranch tenants, employees or others engaged in agricultural production on the Property may be located within the Farmstead Area as needed on a temporary basis (not to exceed eight (8) months in any one calendar year), but may not be used as permanent residences.

(f) *Utilities and Septic Systems within the Farmstead Area.* Within the Farmstead Area, utilities, including but not limited to wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, energy generation, or other utility services solely to and serving approved buildings or structures, including on-farm energy structures allowed in Section 5(g) that neither individually nor collectively have an adverse impact on the grazing uses or grassland restoration and related Conservation Values of the Property may be built. Once constructed, such utilities may be installed, maintained, repaired, removed, relocated and replaced within the Farmstead Area. With Written Advisement to Grantee, Grantor may grant rights-of-way over and under the Property for such purposes in accordance with Section 7(j), provided such rights-of-way are not inconsistent with this Easement. Any disturbed areas shall be revegetated and restored to a natural condition with native vegetation as soon as is practicably possible after completion of any utility construction permitted by this Easement. Septic or other underground sanitary systems serving the improvements permitted herein may be installed, maintained, repaired, replaced, relocated or improved, and shall be placed within the Farmstead Area.

(g) *Renewable Energy.* Renewable energy production and associated minor renewable energy structures are allowed solely for the purpose of generating energy for the agricultural and residential needs of the Property (“Minor Renewable Energy Structures”). Minor Renewable Energy Structures include, but are not limited to, solar panels, micro-hydropower, and wind turbines. Minor Renewable Energy Structures must be built and maintained in accordance with any local zoning ordinance and applicable State and Federal law. Renewable energy production may not be utilized for transmission to third parties; provided however, any incidental renewable energy generated in excess of Grantor’s consumption may be credited to Grantor to the extent permitted by California law and by doing so for such limited purpose shall not be considered a commercial or industrial use. Minor Renewable Energy Structures must be built and maintained within impervious surface limits, with minimal impact on the Conservation Values of the Property and consistent with the purposes of the Easement. Any disturbed areas shall be revegetated and restored to a natural condition with native vegetation as soon as is practicably possible after completion of any utility construction permitted by this Easement. Within the Farmstead Area, the construction, maintenance, repair, remodel or replacement of Minor Renewable Energy Structures described in this paragraph is permitted. Minor Renewable Energy Structures described in this paragraph located outside of the Farmstead Area are subject to prior written approval by Grantee and are further described in Section 6(b).

(h) *Use and Storage of Agricultural Products and Equipment; Temporary Storage of Residential and Agricultural Waste.* The use and storage of the following is permitted as long as they are for

use on the Property and carried out in accordance with applicable law and labeling requirements: agricultural products, agricultural chemicals, agricultural byproducts, farm machinery, and agricultural equipment. "Agricultural chemicals" includes herbicides, pesticides, fungicides, fertilizers, and other materials commonly used in farming operations even though they may be "Hazardous Materials" as defined in Section 22. Temporary storage of residential and agricultural waste generated on the Property for periodic removal off-site is permitted. The creation of brush piles and composting of organic materials from the Property is also permitted provided that such compost materials shall not be placed within two hundred (200) feet of the high water mark of any vernal pool, creek, spring, or wetland, and the Conservation Values of the Property are not significantly impaired.

(i) *Existing Roads, Bridges and Trails.* Maintenance of existing roads, bridges, and trails documented in the Baseline Documentation Report is allowed, however, existing roads, bridges, and trails may not be widened or improved except as may be permitted under Section 6(d).

(j) *Non-developed and Non-consumptive Recreation and Educational Activities.* Recreational and educational activities that are both non-developed and non-consumptive are permitted if they do not negatively affect the grassland, grazing uses, and related Conservation Values, and are consistent with the Conservation Purpose of the Easement. Grantor and Grantor's invitees may conduct non-motorized recreational activities on the Property, including, but not limited to, hunting, fishing, hiking, horseback riding, and cross-country skiing.

(k) *Customary Rural Enterprises.* Customary rural enterprises related, ancillary, and secondary to grazing uses or grassland restoration and conservation, or small-scale commercial enterprises compatible, ancillary and secondary to grazing uses or grassland restoration and conservation, such as home and agricultural management offices, are permitted in the approved buildings in the Farmstead Area. Activities that can be and in fact are conducted within approved buildings without material alteration to their external appearance or harming the grazing uses or grassland restoration and conservation, and related Conservation Values of the Property, are permitted.

(l) *Agritourism Activities.* Low impact Agritourism Activities (defined below) that do not permanently alter the physical appearance of the Property and that do not impair the Conservation Values of the Property are permitted, provided that all parking related to such uses and activities is within the Farmstead Area and provided that such uses and activities are limited by Section 7(h) and Section 7(f). "Agritourism Activity" means any activity that is ancillary and secondary to the rural ranching activities on the Property and allows members of the general public to view or participate in rural ranching activities. "Agritourism Activity" includes, but is not limited to: guided or self-guided ranch tours; hay rides; work experiences; irrigation of grasslands; barn parties or ranch festivals; and livestock activities, such as roping, branding, and herding, but not to include rodeos. Such activity is an Agritourism Activity whether or not the participant paid to participate in the activity.

(m) *Subsequent Liens or Encumbrances on Property.* Grantor may use the Property as collateral for a subsequent borrowing, provided any subsequent obligations secured by the Property are subordinate to this Easement, generally, and all of the beneficiary's rights, interests, claims, remedies and privileges under any security instrument (including, but not limited to, any right of the beneficiary to insurance proceeds or proceeds in a condemnation proceeding), specifically,

are, and at all times shall continue to be, subject and subordinate in all respects to the Easement and the interest of Grantee, with the same force and effect as if the Easement had been executed, delivered and recorded prior to the execution and delivery of the security instrument.

(n) *Emergencies and Construction of Temporary Improvements.* In an emergency such as fire or flood, Grantor may take such limited and temporary actions as are reasonably necessary to protect physical safety of persons and property on the Property and the Property itself, including residential and agricultural improvements and agricultural products and only to the limited extent necessary for such protection and provided such actions are in compliance with all Applicable Laws. The construction, placement, or use of limited, temporary living, or construction of temporary farm management quarters or mobile homes on the Property during limited periods of single-family dwelling construction or during or immediately following an emergency rendering the primary residence(s) uninhabitable, is permitted, provided such construction or use is in compliance with all Applicable Laws and such trailers or temporary improvements are removed immediately after the period of emergency is over or construction is completed, as determined by Grantee. Grantor shall give Grantee prompt Written Advisement of any emergency actions taken under this Section. If emergency actions taken in accordance with this Section continue for more than sixty (60) days, Grantor will seek Grantee's approval pursuant to Section 4 of this Easement and such approval shall not be unreasonably withheld.

(o) *Forest Management and Timber Harvest.* Forest management and timber harvesting is permitted, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Property. In addition, if the Property contains forty (40) contiguous acres of forest or twenty percent (20%) of the Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with Grantee. A forest management plan will not be required for the following allowed non-commercial activities: (i) cutting of trees for the construction of allowed utilities, buildings and structures on the Property, (ii) cutting of trees for trail or road clearing, (iii) cutting of trees for domestic use as firewood, or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive tree species.

(p) *Habitat Restoration.* The restoration of habitat on the Property is permitted if the habitat restoration is consistent with the terms and purposes of the Easement and in compliance with the ALE Plan.

(q) *Use of Motorized Vehicles.* The use of motorized vehicles off roadways and outside of the Farmstead Area is limited to use for agricultural production, property maintenance and security, emergencies for protection of persons and property or for the purpose of monitoring this Easement. Motorized vehicle use off roadways shall be carried out in a manner that does not diminish or impair the grazing uses or grassland restoration and conservation activities and open space character of the Property or cause significant soil degradation or erosion.

(r) *Signs.* Grantor may erect a reasonable number of signs or other appropriate markers, each not to exceed dimensions of four feet (4') by eight feet (8') in a prominent location on the Property, visible from a public road, which identify agricultural, ranching, or conservation

activities on the Property and/or which state that no trespassing or no hunting is allowed on the Property. Temporary political signs are allowed. Grantor may erect signs denoting the names and addresses of residents on the Property and controlling unauthorized entry or use; and may erect a "For Sale" sign in conformity with California Civil Code sections 712 and 713.

(s) *Limited Surface Alteration.* Grading, blasting, filling, sod farming, earth removal, plowing, tilling, disking, cultivation, ripping, surface alteration, conversion, disturbance, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Property is allowed only (i) as required in the construction of approved buildings, structures, and utilities within the Farmstead Area provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; (ii) as part of ditch and water facilities maintenance under Section 9; (iii) for repair, maintenance, and grading of existing roads and trails; (iv) dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, or wetland restoration, enhancement or creation, in accordance with the ALE Plan; (v) erosion and sediment control pursuant to a plan approved by Grantee; and (vi) grazing uses or grassland restoration and conservation activities conducted in accordance with the ALE Plan. Any change in the topography of the Property through the placement on the Property of soils, land fill, dredging spoils, or other materials is allowed only (i) within the Farmstead Area; (ii) as part of habitat restoration activities described in Section 5(p), or (iii) as otherwise approved by Grantee in writing prior to the activity. All other surface alteration is prohibited as described in Section 7(a).

(t) *Limited Industrial and Commercial Uses.* Industrial and commercial uses on the Property are allowed only for (i) agricultural production and related uses conducted as described in the ALE Plan; (ii) processing, packaging, marketing, or sale of farm or forest products produced on the Property and other properties owned by Grantor in approved buildings; (iii) small-scale incidental commercial and rural enterprises as described in Section 5(k) compatible with agriculture or forestry that are consistent with the Conservation Purpose of this Easement, provided that small-scale commercial and rural enterprises that require their own buildings are prohibited; (iv) activities that can be and in fact are conducted within approved buildings without material alteration to their external appearance or harming the grazing uses or grassland restoration and conservation, and related Conservation Values of the Property; (v) small-scale, temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, grazing uses or grassland restoration and conservation, and related Conservation Values of the Property herein protected; and (vi) Agritourism Activities as described in Section 5(l). All other industrial and commercial uses are prohibited as described in Section 7(f).

6. *Uses and Actions Permitted with Prior Approval of Grantee.*

The following uses and practices may be consistent with this Easement, depending on the manner in which they are carried out and the potential impacts they may have on the Conservation Values. Prior written notice to and approval of Grantee is required before Grantor begins these uses and practices. Prior approval shall be sought by Grantor in accordance with Section 4.

(a) *Boundary of Farmstead Area.* Subject to Sections 5(d) and 5(e), the boundaries of the fifteen (15)-acre Farmstead Area may be adjusted if Grantee, the Department, and the Chief of NRCS

provide advance written approval of the adjusted boundaries prior to any adjustment. The Farmstead Area may not increase in size and the adjusted Farmstead Area must provide equal or greater protection of the grassland, grazing uses or grassland restoration and conservation, and related Conservation Values of the Property.

(b) *Minor Agricultural Structures and Improvements Outside the Farmstead Area.* New minor agricultural structures and improvements that neither individually nor collectively have an adverse impact on the grassland, grazing uses, and related Conservation Values of the Property may be built outside of the Farmstead Area with prior written approval of Grantee, provided that the minor agricultural structures and improvements are consistent with the ALE Plan and are otherwise consistent with the Conservation Purpose of this Easement. Minor agricultural structures include, but are not limited to, pump houses, water troughs, water control structures, and water tanks. Any existing structure documented in the Baseline Documentation Report that is located outside of the Farmstead Area may be replaced and/or rebuilt with another of similar size in its current footprint without prior approval from Grantee. Subject to Section 5(g) new Minor Renewable Energy Structures outside of the Farmstead Area are subject to prior written approval of Grantee that such structures will not, individually or collectively, adversely affect the Conservation Values. Each individual Minor Renewable Energy Structure outside the Farmstead Areas may not exceed two hundred (200) square feet and the aggregate area of all of such minor structures shall not exceed eight hundred (800) square feet. The temporary placement of travel/residential trailers or mobile homes outside of the Farmstead Area is permitted with prior written approval of Grantee, provided that such travel/residential trailers and mobile homes are necessary for active agricultural activities or approved construction or maintenance of minor agricultural structures and improvements outside of the Farmstead Area. In no event shall such travel/residential trailers or mobile homes be placed outside of the Farmstead Area for a time period exceeding seven (7) months in any one calendar year.

(c) *Utilities and Septic Systems Outside the Farmstead Area.* Utilities to serve approved buildings or structures, including utilities to serve on-farm renewable energy structures allowed under Sections 5(g) and 6(b) that neither individually nor collectively have an adverse impact on the grassland, grazing uses, and related Conservation Values of the Property may be built outside of the Farmstead Area with prior written approval of Grantee provided that the utilities are built and maintained within impervious surface limits, with minimal impact on the Conservation Values, and are consistent with the purposes of this Easement and the ALE Plan described in Section 3. To avoid impacts to Bi-State greater sage-grouse, all such new electrical and plumbing infrastructure located outside the Farmstead Area shall be constructed underground unless otherwise approved by Grantee.

(d) *Widening and Improvement of Existing Roads, Bridges, and Trails.* Existing roads, bridges, and trails may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Property.

(e) *Questionable Activities.* Grantor and Grantee acknowledge that, in view of the perpetual duration of this Easement, they are unable to foresee all potential future land uses, technologies, and natural changes to the land and its Conservation Values over time. If it is reasonably debatable as to whether an activity or use that is not expressly addressed in this Easement is

consistent with the terms of this Easement or might impair or interfere with the Conservation Values of the Property, then Grantor shall notify and seek prior approval from Grantee in the manner described in Section 4 prior to engaging in such practices or activities.

7. Prohibited Uses.

Grantor shall not perform, or knowingly allow others to perform, any activity on or affecting the Property that is inconsistent with the Conservation Purpose of this Easement. The provisions of this Easement limit the types of agricultural operations that can occur on the Property to those that restore or conserve grassland, and protect grazing uses, and related conservation values.

The following activities, uses, and practices, though not an exhaustive recital of inconsistent activities, uses, and practices, are inconsistent with the Conservation Purpose of this Easement, and are specifically prohibited on the Property, subject to the qualifications stated below:

(a) *Surface Alteration.* Grading, blasting, filling, sod farming, earth removal, plowing, tilling, disking, cultivation, ripping, surface alteration, conversion, disturbance, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Property is prohibited, except as provided in Section 5(s).

Any change in the topography of the Property through the placement on the Property of soils, land fill, dredging spoils, or other materials is prohibited, except as provided in Section 5(s).

(b) *Crop Cultivation.* The provisions of this Easement limit the types of agricultural operations that can occur on the Property to those that restore or conserve grassland, and protect grazing uses, and related conservation values. Except for grazing uses and grassland restoration and conservation permitted in Section 5 and Section 6, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial nongrassland agricultural product is prohibited except within the Farmstead Area.

(c) *Buildings and Improvements.* Except as permitted in Sections 5 or 6 above, the construction or placement of any buildings, residential dwellings, camping accommodations, temporary living quarters of any sort, mobile homes, yurts, signs, billboards or other advertising materials, utility towers, or other structures is prohibited.

(d) *New Roads.* The construction of new paved and unpaved roads on the Property is prohibited.

(e) *Waste and Dumping.* Except as provided in Section 5(h) (with respect to temporary storage of residential and agricultural waste), no trash, refuse, vehicle bodies or parts, rubbish, debris, junk, waste or "Hazardous Materials," as defined in Section 22, shall be accumulated, placed, stored, dumped, buried or permitted to remain on the Property.

(f) *Industrial and Commercial Uses.* Industrial and commercial uses on the Property are prohibited except as provided in Section 5(t).

Examples of prohibited industrial or commercial uses include, but are not limited to: (i) the planting and cultivation of commercial vineyards, hops farms, and orchards; (ii) the establishment or maintenance of any commercial greenhouses; (iii) the establishment of any commercial dairies; (iv) the establishment of any hotels, motels, apartment buildings or other multi-family dwellings; (v) commercial or fee-based overnight camping; (vi) commercial or fee-based weddings, or other large-scale commercial events unrelated to agriculture; (vii) ranching or farming of naturalized native animal species, or animals for purposes of fur production; (viii) commercial pet breeding or kennel facilities; and (ix) game farming or fish farms.

(g) *Mining.*

(i) *Grantor Owned or Leased Minerals.* Mining, extraction, exploration, development, production, or transportation of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this Easement or later acquired by Grantor, using any surface mining, hydraulic fracturing, injection wells, subsurface mining, or dredging method, from the Property is prohibited. Grantor shall not grant or lease any rights to any minerals, soil, sand, gravel, oil, natural gas, fuel, coal, or hydrocarbons, including exploration or extraction rights in or to the Property, and Grantor shall not grant any right of access across, under, or through the Property to conduct exploration or extraction activities for minerals, soil, sand, gravel, oil, natural gas, fuel, coal, or hydrocarbons, or other substances on any other property.

(ii) *Third Party Owned or Leased Minerals.* If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to this Easement, Grantor shall require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party, including without limitation, impacts to the Property from any oil and gas exploration and extraction and associated activities is: (A) not accomplished by any surface mining method; (B) accomplished by a method of extraction that has no more than a limited and localized impact that has the least adverse impact on the Conservation Values of the Property, including but not limited to the Property's use for agriculture; (C) within the impervious surface limits of the Easement; and (D) carried out in accordance with all Federal, state, and local regulations. Grantor shall not renew or extend any third party lease for oil, natural gas, or any other mineral substance existing at the time this Easement is executed.

This Section 7(g) shall be interpreted in a manner consistent with section 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto.

(h) *Commercial Recreational Uses and Structures.* Resort structures; golf courses and ranges; non-residential swimming pools; non-residential tennis courts; commercial equestrian facilities; public stables; the commercial raising, training, and boarding of horses; motocross or ATV tracks; playing fields; airstrips; helicopter pads, or any other commercial recreational structure are strictly prohibited on the Property.

(i) *No Subsequent Easements Impairing Agricultural Productive Capacity.* The grant of any subsequent easements (including conservation easements), other interests in land, or use

restrictions that might interfere with the Conservation Purpose, diminish or impair the Conservation Values or be otherwise inconsistent with this Easement is prohibited.

(j) *No Subsequent Easements for Utilities and Roads.* The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the protection of the grazing uses, grassland conservation value, and related Conservation Values of the Property as determined by Grantee in consultation with the Chief of NRCS.

(k) *Subdivision and Common Ownership of the Property.* Separate conveyance of a portion of the Property or division or subdivision of the Property is prohibited. The division, subdivision, de facto subdivision or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process, is prohibited. The Property is currently composed of and is described in Exhibit A as () legal parcels and () assessor parcels. Grantor warrants that no additional, separate legal parcels currently exist within the Property that may be recognized by a certificate of compliance or conditional certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent deed or easement conveyances, subdivisions, leases or surveys of any kind. Grantor will not apply for or otherwise seek recognition of additional legal parcels with the Property based on certificates of compliance, conditional certificates of compliance or any other authority. Grantor will not sell, exchange, convert, transfer, assign, mortgage or otherwise encumber, alienate or convey any parcel associated with the Property or portion of any parcel of the Property separately or apart from the Property as a whole, and Grantor and its successors in interest will at all times treat all parcels of the Property as a single integrated economic unit of property, provided, however, that a lease of a portion of the Property for agricultural or other permitted uses (subject to this Easement) shall not be prohibited by this paragraph. Notwithstanding the foregoing, boundary line adjustments to the perimeter of the Property are permitted with the prior written consent of Grantee, the Department, and the NRCS State Conservationist in the case of technical errors made in the survey or legal description.

Even if the Property consists of more than one parcel for real estate tax or any other purpose or if it may have been acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Property as a whole.

(l) *Off-road Motorized Vehicle Use.* The recreational use of motorized vehicles on the Property off roadways and outside the Farmstead Area is prohibited.

(m) *Commercial Signs.* Commercial signs, including billboards, unrelated to permitted activities conducted on the Property are prohibited.

(n) *Commercial Power Generation and Collection.* Commercial power generation, collection or transmission facilities, including solar or wind farms or facilities, are prohibited.

(o) *Limitation on Impervious Surfaces.* Impervious surfaces will not exceed two percent (2%) of the Property, being acres, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property; including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or

roofs, both within and outside the Farmstead Area. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this Easement.

(p) *Conversion of Native Vegetation.* Conversion of native vegetation to exotic species or the introduction of non-native plant species is prohibited except within the Farmstead Area or as part of a restoration plan approved in writing in advance by Grantee and NRCS and in accordance with the ALE Plan.

(q) *Salt Licks and Supplements.* No salt licks, minerals, food supplements or supplemental feed shall be placed within two hundred (200) feet of the high water mark of any vernal pool, wetland, or riparian area.

(r) *Woven Wire Fences.* To provide for sage-grouse and wildlife movement, except (i) as may be permitted in the Farmstead Area in accordance with Section 5(c), and (ii) as may be described in the ALE Plan for use in weaning pastures, woven wire fences are prohibited.

(s) *Commercial Feedlots.* Establishment or maintenance of commercial feedlots is prohibited. For purposes of this Easement, “commercial feedlot” is defined as a permanently constructed confined area or facility which is used and maintained for purposes of engaging in the business of feeding livestock and which is not grazed or cropped annually. Nothing in this section shall prevent Grantor from confining Grantor’s livestock for discretionary seasonal feeding or from leasing grazing rights for livestock owned by others, so far as these actions do not impair the Conservation Values.

(t) *Trapping.* Trapping is prohibited except as part of a habitat restoration project and only upon prior approval from Grantee, provided, however, that trapping of household pest animals within the Farmstead Area is permitted.

(u) *Commercial Lodging.* The establishment of any commercial overnight lodging business, day lodge, dude ranch, guiding, hunting or fishing service, restaurant or other eating establishment is prohibited.

8. *Extinguishment of Development Rights.*

Except as specifically reserved in this Easement, Grantor hereby grants to Grantee all development rights that are now or shall hereafter be allocated to, implied, reserved, appurtenant to, or inherent in the Property, and the parties agree that such rights are released, terminated, and extinguished, and may not be used on or transferred by either party to any portion of the Property as it now or later may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property. This Easement shall not create any development rights.

9. *Water Rights and Water Facilities*

Severance, conveyance, or encumbrance of water or water rights appurtenant to the Property, separately from the underlying title to the Property, or other action that diminishes or

extinguishes such water rights, is prohibited. Grantor shall retain and reserve all ground water, and all appropriative, prescriptive, contractual or other water rights appurtenant to the Property at the time this Easement becomes effective. Grantor shall not permanently transfer, encumber, lease, sell, or otherwise separate such quantity of water or water rights from title to the Property itself. Only that quantity of water or water rights that is not necessary for present or future agricultural production on the Property may be temporarily distributed. Any temporary distribution shall not impair the future agricultural use or open space character of the Property. Permanent separation of water or water rights is prohibited. Subject to the above restriction, Grantor shall otherwise have all rights to use and enjoy the water resources on the Property as permitted under state and federal laws.

Grantor shall have the right to continue the historic use of the Water Rights on the Property (as described in the Baseline Documentation Report) and to maintain, improve, expand, repair, relocate, and if destroyed, reconstruct any existing irrigation facilities, ditches and other water facilities and infrastructure that exist on the Property as of the date of this Easement as documented in the Baseline Documentation Report. Grantor may convert existing ditches to pipelines if such modification is consistent with the ALE Plan.

10. *Rights Retained by Grantor.*

Subject to Section 8 and to interpretation under Section 24(a), as owner of the Property, Grantor reserves all interests in the Property not transferred, conveyed, restricted, extinguished or prohibited by this Easement. These ownership rights include, but are not limited to, the right to sell, lease, devise or otherwise transfer the Property to anyone Grantor chooses, as well as the right to privacy and the right to exclude any member of the public from trespassing on the Property and any other rights consistent with the Conservation Purpose of this Easement. Nothing contained herein shall be construed as a grant to the general public of any right to enter upon any part of the Property.

11. *Responsibilities of Grantor and Grantee Not Affected.*

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantor as owner of the Property. Among other things, this shall apply to:

(a) *Taxes.* Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee ever pays any taxes or assessments on the Property, or if Grantee pays levies on Grantor's interest in order to protect Grantee's interest in the Property, Grantor will reimburse Grantee for the same. It is intended that this Easement constitute an enforceable restriction within the meaning of Article XIII, section 8 of the California Constitution and that this Easement qualify as an enforceable restriction under the provisions of California Revenue and Taxation Code sections 402.1(a)(8) and 423.

(b) *Upkeep and Maintenance.* Grantor shall be solely responsible for the upkeep and maintenance of the Property. Grantee, the Department and the United States shall have no obligation for the upkeep or maintenance of the Property. If Grantee, the Department or the United States acts to maintain the Property in order to protect Grantee's interest in the Property, Grantor will reimburse Grantee, the Department and the United States for any such costs.

Grantor shall take reasonable actions to prevent the unlawful entry, trespass, and unpermitted use or occupancy by persons whose activities might diminish or impair the Conservation Values.

(c) *Compliance with Law.* Grantor shall comply with all applicable laws, rules, regulations, permits, judgments and court and administrative orders (collectively, “**Applicable Laws**”) with respect to the Property. Nothing in this Easement relieves Grantor of any obligation with respect to the Property or restriction on the use of the Property imposed by law, whether currently existing or hereafter enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing. In no event shall this Easement be construed as granting any landowner rights not permitted by local building, land use and/or zoning regulations at the time of construction, demolition, occupation, or other regulated use.

(d) *United States’ General Disclaimer.* The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee’s or Grantor’s negligent acts or omissions or Grantee’s or Grantor’s breach of any representation, warranty, covenant, or agreements contained in this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Property.

(e) *Liability and General Indemnification.* In view of Grantee’s, the Department’s and the United States’ negative rights, limited access to the land, and lack of active involvement in the day-to-day management activities on the Property, Grantor shall indemnify, protect, defend and hold harmless Grantee, the Department, and the United States, their respective officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns (collectively, “**Agents and Assigns**”) from and against any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, orders, liens, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which Grantee, the Department and the United States may be subject or incur relating to the Property, resulting from, growing out of, or in any way connected with or incident to any portion of the Property or this Easement, except to the extent attributable to the sole active negligence or willful misconduct of Grantee, the Department and the United States, and/or their respective Agents and Assigns. Grantor shall indemnify and hold harmless Grantee, the Department, and the United States, their respective Agents and Assigns for the breach of any and all representations, warranties, covenants, and agreements contained in this Easement, or violations of any Federal, State, or local laws, including all Environmental Laws.

Grantor shall be solely liable for injury or the death of any person, or physical damage to any property, or any other costs or liabilities resulting from any act, omission, condition, violation of the law or of this Easement or other matter related to or occurring on or about the Property, regardless of cause, unless due to the sole active negligence or willful misconduct of Grantee, the

Department, the United States and/or their respective Agents and Assigns.

Neither Grantee, the Department, the United States, nor their respective Agents and Assigns shall have responsibility for the operation of the Property, monitoring of hazardous conditions on it, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Without limiting the foregoing, neither Grantee, the Department, the United States, nor their respective Agents and Assigns shall be liable to Grantor or other person or entity in connection with consents given or withheld, or in connection with any entry upon the Property occurring pursuant to this Easement, or on account of any claim, liability, damage or expense suffered or incurred by or threatened against Grantor or any other person or entity, unless the claim, liability, damage, or expense is the result of the sole active negligence or willful misconduct of Grantee, the Department, the United States and/or their respective Agents and Assigns.

(f) *Liability Insurance.* Grantor shall maintain comprehensive general liability insurance in the amount of no less than One Million Dollars (\$1,000,000.00) (either in a stand-alone general liability policy, or as part of umbrella coverage, or a combination of the two) for the Property. Grantor shall cause all such policies of insurance to name Grantee as an additional insured and provide Grantee with a certificate of insurance on an annual basis evidencing compliance with this provision.

12. *Monitoring Reports.*

Grantee shall manage its responsibilities as holder of this Easement so as to uphold the Conservation Purpose of this Easement. Grantee's responsibilities include, but are not limited to, annual monitoring, such additional monitoring as circumstances may require, record keeping, and enforcement, for the purpose of preserving the Property's Conservation Values in perpetuity. Grantee shall report to the Department by June 30 annually after the annual monitoring visit, describing method of monitoring, condition of the Property, stating whether any violations were found during the period, describing any corrective actions taken, the resolution of any violation, and any transfer of interest in the Property. Failure to do so shall not impair the validity of this Easement or limit its enforceability in any way.

13. *Monitoring and Enforcement.*

(a) *Monitoring.* With reasonable advance notice (except in the event of an emergency or suspected emergency), Grantee shall have the right to enter upon, inspect, observe, monitor and evaluate the Property to identify the current condition of, and uses and practices on the Property and to determine whether the condition, uses and practices are consistent with this Easement. The United States and the Department may accompany Grantee on its annual monitoring visit to the Property to observe Grantee carrying out the monitoring process.

Monitoring visits shall be subject to the following conditions:

(i) Except in cases in which Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of the Easement, or to preserve or protect the Conservation Values, such entry will be made after giving notice to Grantor at least 48 hours in

advance of such entry, as described in Section 20 and will not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;

(ii) Entry shall take place during normal business hours unless otherwise required due to exigent circumstances; and

(iii) Grantee shall indemnify, defend with counsel of Grantor's choice, and hold Grantor harmless from, all expense, loss, liability, damages and claims, including Grantor's reasonable attorneys' fees, if necessary, arising out of Grantee's entry on the Property, unless caused by a violation of this Easement by Grantor or by Grantor's negligence or willful misconduct.

(b) *Consultation and Mediation.* When any disagreement, conflict, need for interpretation, or need for enforcement arises between the parties to this Easement, each party shall first consult with the other party in good faith and attempt to resolve the issue before resorting to mediation or legal action.

(i) Grantor and Grantee agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation. Mediation is therefore the parties' preferred dispute resolution procedure when circumstances do not require Grantor or Grantee to seek immediate injunctive relief from the courts. In the event of any dispute between Grantor and Grantee over the meaning, requirements, interpretation, or implementation of the Easement, Grantor or Grantee may refer the dispute to mediation by written request served upon the other party. The non-requesting party shall have ten (10) days after receipt of a mediation request to consent thereto or refuse to mediate the dispute.

(ii) Within ten (10) days after Grantor and Grantee agree to mediation of a dispute, the parties shall mutually select a mediator. Mediation hearings shall remain informal, with each party being permitted to present such facts and evidence as it may reasonably believe supports that party's position. Costs and expenses of mediation shall be divided equally between Grantor and Grantee; provided, however, that each party shall pay its own attorneys' fees.

(iii) Notwithstanding any provision to the contrary, the mediation procedure set forth herein shall in no way be construed to deprive Grantor or Grantee of any judicial remedy provided at law or in equity, or by agreement herein, and is intended solely as an informal dispute resolution mechanism. Neither Grantor nor Grantee shall have the right to compel performance of mediated solutions, unless such solutions are reduced to a binding written agreement between Grantor and Grantee at the conclusion of the mediation process. The parties hereto intend that each conflict and dispute submitted to mediation shall be unique, with facts, circumstances, and recommended resolutions to be determined on a case-by-case basis, without reference to prior conflicts, disputes, or the resolutions thereto.

(c) *Enforcement.* Grantee may take all actions that it deems necessary to ensure compliance with the terms, conditions, covenants and Conservation Purpose of this Easement. Grantee shall have the right to prevent and correct violations of the terms of this Easement. Grantor shall indemnify, protect, defend and hold harmless Grantee, the Department, their respective officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns from and against all liabilities, costs, losses, orders, liens, penalties, claims, demands, damages, expenses,

or causes of action or cases, including without limitation reasonable attorneys' fees, arising out of the violation of the terms of this Easement.

(i) If Grantee finds what it believes is a violation or potential violation, it may at its discretion take appropriate legal action to ensure compliance with the terms, conditions, covenants and Conservation Purpose of this Easement and shall have the right to correct violations and prevent the threat of violations. Except when an ongoing or imminent violation could irreversibly diminish or impair the agricultural productive capacity and open space character of the Property, Grantee shall give Grantor written notice of the violation or potential violation and, where known to Grantee, the notice shall identify corrective action necessary to cure the violation. Where the violation involves injury to the Property resulting from any use or activity inconsistent with this Easement, the notice may demand restoration of the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after Grantee gives notice, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, and if Grantor fails to begin curing the violation within the thirty (30) day period, or if Grantor does not continue to diligently cure the violation until finally cured, or as otherwise provided in this Easement, Grantee may bring an action at law or in equity to enforce the terms of this Easement.

(ii) If a court with jurisdiction determines that a violation may exist or has occurred or is about to occur, Grantee may obtain an injunction, specific performance, or any other appropriate equitable or legal remedy, including (i) money damages, including damages for the loss of the Conservation Values protected by this Easement; (ii) restoration of the Property to its condition existing prior to such violation; and (iii) an award for all Grantee's expenses incurred in stopping and correcting the violation, including but not limited to reasonable attorneys' fees. Grantee's remedies under this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

(iii) Without limiting Grantor's liability therefor, Grantee shall apply damages recovered to the cost of undertaking any corrective action on the Property. Should the restoration of lost values be impossible or impractical for whatever reason, Grantee shall apply any and all damages recovered to furthering Grantee's mission, with primary emphasis on agricultural conservation easement acquisition and enforcement.

(iv) In the event Grantee fails to enforce any term, condition, covenant or restriction of this Easement, as determined by the Director of the Department, the Director of the Department and his or her successors and assigns shall have the right to enforce this Easement after giving notice to Grantee and Grantor and providing a reasonable opportunity under the circumstances for Grantee to enforce any term, condition, covenant, or Conservation Purpose of the Easement. In the event that the Director of the Department determines that Grantee has failed to enforce any of the terms, conditions, covenants, or Conservation Purpose of the Easement, the Director of the Department and his or her successors and assigns shall be entitled to exercise the right to enter the Property granted to Grantee including rights of immediate entry in the event of an emergency or suspected emergency where the Director of the Department or his or her successor or assign determines that immediate entry is required to prevent, terminate or mitigate a violation of this Easement.

(v) Grantor hereby waives any defense of laches, estoppel, prescription, unclean hands or the doctrine of changed circumstances in any action or proceeding, including but not limited to any mediation brought by Grantee to enforce or to interpret the provisions of this Easement.

(vi) Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from any natural cause beyond Grantor's control, including without limitation, fire, flood, storm, infestations, natural deterioration, earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property or to any person resulting from such causes. If either party finds what it believes is such an occurrence that would adversely affect or interfere with the Conservation Purpose, that party shall notify the other party of any such occurrence.

14. *United States Right of Enforcement.*

Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the Easement are not enforced by the holder of the Easement. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if Grantee, or its successors or assigns, fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the Easement against Grantor.

Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that Grantee and Grantor are in compliance with the Easement and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Easement, the ALE Plan, and the United States Cooperative Agreement with Grantee, the United States will have reasonable access to the Property with advance notice to Grantee and Grantor or Grantor's representative.

In the event of an emergency, the United States may enter the Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor's representative at the earliest practicable time.

15. *Transfer of Easement.*

The parties recognize and agree that the benefits of this Easement are in gross and assignable. Grantee shall have the right to transfer or assign this Easement to an entity that: (a) satisfies the requirements of section 170(h)(3) of the U.S. Internal Revenue Code (or successor provisions

thereof); (b) meets the requirements of section 815.3 of the California Civil Code; and (c) as a condition of transfer, agrees to uphold the Conservation Purpose of this Easement, as required in Treasury Regulations section 1.170A-14, as amended.

The final transfer of the Easement to the proposed transferee selected by Grantee shall be subject to the prior written approval of the Department and the United States, such approval not to be unreasonably withheld. In the event of transfer of the Easement, Grantee shall provide Grantor written notice of such assignment.

If Grantee ever ceases to exist or no longer qualifies under section 170(h) of the U.S. Internal Revenue Code, or applicable state law, the Department, and the United States shall, in consultation with Grantor, transfer this Easement, pursuant to the California Public Resources Code section 10235(b), to another qualified organization, as defined in section 815.3 of the Civil Code of California, having similar purposes, that agrees to assume the responsibility imposed by this Easement.

16. Transfer of Property Interest.

Subject to the terms of this Easement, Grantor may transfer the Property or an interest therein, but each transferee shall be subject to, and be bound by, the terms and provisions of this Easement. Grantor shall notify Grantee and the Department in writing at least thirty (30) days prior to the transfer of the Property or an interest therein and shall provide Grantee with a copy of the proposed document of conveyance. The document of conveyance, including any lease, shall expressly incorporate this Easement by reference. Failure of Grantor to comply with the terms of this section shall not impair the validity of this Easement or limit its enforceability in any way.

Grantor shall deliver to the buyer as part of the escrow for the sale of the Property Grantor's copy of the Baseline Documentation Report, or request Grantee provide a copy of the Baseline Documentation Report at Grantor's cost and expense. As part of the escrow for the sale of the Property, Grantor shall obtain from the buyer and deliver to Grantee, an acknowledgement to be signed by the buyer in substantially the same form as Exhibit D attached hereto, wherein the buyer acknowledges receipt of the Baseline Documentation Report and certifies that the Baseline Documentation Report is an accurate representation of the condition of the Property as of the date of their acknowledgement (subject to any changes of condition specified by the buyer).

17. Transfer Fee.

(a) Grantor and Grantee recognize and agree that any transfer of the Property and any division of ownership will result in an additional burden on the monitoring and enforcement responsibilities of Grantee. Therefore, there shall arise, by virtue of any transfer for consideration of all or a portion of the Property, or interest therein (other than a lease for a total term, including any options to renew or extend, not exceeding thirty-five (35) years) a fee which is referred to herein as the "Transfer Fee." The Transfer Fee shall be the obligation of the seller of the Property and shall be payable to Grantee or subsequent holder of this Easement. The Transfer Fee shall be equal to one percent (1%) of the consideration paid in connection with the transfer of any interest in the Property, and shall be paid to Grantee concurrently with the close of escrow or other

consummation of the sale of the Property. The Transfer Fee shall be paid to Grantee at the address for giving notices to Grantee as set forth in Section 21. For example, if the Property has a fair market value of two hundred fifty thousand dollars (\$250,000.00), the Transfer Fee would be two thousand five hundred dollars (\$2,500.00); if the Property has a fair market value of five hundred thousand dollars (\$500,000.00), the Transfer Fee would be five thousand dollars (\$5,000.00); and if the Property has a fair market value of seven hundred fifty thousand dollars (\$750,000.00), the Transfer Fee would be seven thousand five hundred dollars (\$7,500.00). The Transfer Fee shall be used by Grantee for conservation easement stewardship responsibilities, including monitoring and enforcement. Grantor and Grantee agree to execute and record at closing a "NOTICE OF PAYMENT OF TRANSFER FEE REQUIRED" in accordance with California Civil Code section 1098.5 respecting the Transfer Fee.

(b) Grantor or any subsequent purchaser shall provide reasonable written proof of the sales price of the Property, including but not limited to executed closing statements, contracts of sale, copies of deeds or other similar evidence satisfactory to Grantee. An exchange of properties pursuant to Internal Revenue Code section 1031, or similar statute, shall be deemed to be for consideration based on the appraised market value of the Property at the time of the exchange. Market value shall be determined by agreement of Grantor and Grantee, or in the absence of such agreement, by an appraiser selected by Grantee that is State certified, designated, and qualified to value the real property, whose appraisal fee shall be paid by Grantee. Grantor agrees to comply with the applicable requirements of Civil Code section 1102.6e, respecting providing notice about the Transfer Fee to Grantor's transferees.

(c) Any of the following transfers, subsequent to the conveyance of this Easement, shall be exempt from the assessment of such Transfer Fee: (i) a transfer without consideration (e.g. an inter vivos gift or testamentary conveyance); (ii) a sale or other conveyance or exchange from one or more of the original Grantors or their issue to any other one or more of the original Grantors or their issue; or (iii) a sale or other conveyance or exchange to the issue of any Grantor or any trust established for the exclusive benefit of the issue of any Grantor.

(d) In the event of non-payment of the Transfer Fee in accordance with this Section, Grantee shall have the right to record a lien against the Property in the amount equal to the unpaid Transfer Fee plus any and all reasonable costs and attorney's fees necessary to prepare and enforce the lien of the Transfer Fee. The lien shall be recorded in accordance with California Civil Code sections 2872 et seq. The lien shall be subordinate to this Easement and any other prior liens, encumbrances, mortgages and deeds of trust of record and any subsequent mortgages or deeds of trust. A copy of the lien shall be mailed via certified mail, return receipt requested, to the purchaser at his last known address upon recordation of the lien. After the expiration of thirty (30) days following the mailing of a copy of the lien, the lien may be enforced in any manner permitted by law, including without limitation a sale by the court or sale by the trustee designated by Grantee in the lien, in the sole exercise of its discretion, in accordance with the provisions of section 2924 of the California Civil Code.

18. *Presumption Against Amendment of Easement.*

It is the parties' intention that this Easement will not be amended or modified. In the event of unforeseen circumstances or exceptional situations Grantee may consider an amendment or

modification to this Easement, but in no event shall such amendment be made without compliance with Grantee’s internal procedures and standards for such modification, and federal, state and local laws regarding the creation and amendment of conservation easements. No amendment shall be allowed that would adversely affect the qualifications of this Easement as a charitable gift (if applicable) or the status of Grantee under any Applicable Laws, including section 170 (h) of the Internal Revenue Code or the laws of the State of California, and with section 815 et seq. of the California Civil Code, and the California Climate Investments Program, or that would weaken the Easement in terms of protection of the Conservation Values or its perpetual duration. **This Easement may be amended only if, in the sole and exclusive judgment of Grantee, the Director of the Department and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this Easement and complies with all Applicable Laws and regulations. Grantee must provide timely written notice to the Department and the Chief of NRCS of any proposed amendment(s). Prior to the signing and recordation of the amended Easement, such amendment(s) must be mutually agreed upon by Grantee, Grantor, the Director of the Department and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of Department or the United States is null and void.** Any such amendment shall be signed by Grantor and Grantee, and shall be recorded in the official records of ___ County. Copies of any amendments to this Easement shall be provided to the Department and the United States within thirty (30) days of recordation.

19. *Waiver of Administrative Termination.* It is the intention of the parties that the Conservation Purpose of this Easement shall be carried out forever as provided in the section 10211 of the California Public Resources Code, section 815 et seq. of the California Civil Code. Accordingly, Grantor hereby waives on behalf of Grantor and Grantor’s successors and assigns all rights at law or in equity to request a termination of this Easement pursuant to Public Resources Code section 10270 et seq.

Waiver of Right to Request Administrative Termination:

Grantor Initials: _____ [*and*] _____

20. *Extinguishment, Termination, and Condemnation.*

(a) The interests and rights under this Easement may only be extinguished or terminated with written approval of Grantee, the Department and the United States. Due to the Federal interest in this Easement, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Property.

(b) With respect to a proposed extinguishment, termination, or condemnation action, Grantee, the Department and the United States stipulate that the fair market value of the Easement is percent (___%), hereinafter the “Easement Percentage,” of the fair market value of the land unencumbered by this Easement. The Easement Percentage will remain constant over time.

(c) If this Easement is extinguished, terminated, or condemned, in whole or in part, then Grantor must reimburse Grantee, the Department and the United States an amount equal to the greater of:

(i) The fair market value of the Property, excluding the value of the improvements on the Property, as though unencumbered by this Easement, multiplied by the Easement Percentage; or

(ii) The fair market value of the Easement.

The fair market value will be determined at the time all or a part of this Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a qualified and certified general appraiser acceptable to Grantor and Grantee and the appraisal must be approved by Grantee, the Department and the United States.

If Grantor has initiated termination of the Easement through a judicial proceeding, Grantor shall pay the cost of the appraisal, and the appraisal must be approved by Grantee, the Department and the United States. Nothing herein shall prevent Grantor, Grantee, the Department, or the United States from having an appraisal prepared at its own expense.

Said amount determined as set forth hereinabove in this Section 20(c) is the compensation (“Compensation”) due and payable to Grantee, the Department and the United States and shall be allocated among Grantee, the Department and the United States in proportion to the percentage contribution each made to the purchase price of this Easement (their respective “Proportionate Shares”) as set forth below in Section 20(d). This Easement shall not be deemed terminated or extinguished until such Compensation is received by the State of California, Department of Conservation California Farmland Conservancy Program Fund, and the United States.

(d) The allocation of the Compensation shall be in accordance with the Proportionate Shares of Grantee, the Department and the United States and will be as follows: (i) [to Grantee or its designee, zero percent (0.00%)]; (ii) to the Department, XX _____ percent (___%); and (iii) to the United States __ percent (___%). Until such time as Grantee, the Department and the United States receive their respective Proportionate Shares from Grantor or Grantor’s successor or assign, Grantee, the Department and the United States each have a lien against the Property for the amount of the Proportionate Share due each of them with the same seniority as this Easement. If the Compensation from termination, extinguishment, or condemnation is paid directly to Grantee, Grantee must reimburse the Department and the United States for the amount of the Proportionate Shares due respectively to the Department and the United States.

(e) If circumstances arise in the future that render the Conservation Purpose of this Easement impossible to accomplish, this Easement may be terminated or extinguished, whether in whole or in part, on the initiative of Grantee or Grantor, but only by judicial proceedings in a court of competent jurisdiction. Grantee shall give notice to the Department and the United States of any prospective termination or extinguishment of this Easement not less than sixty (60) business days before initiating such proceedings. The Department and the United States may intervene in any such judicial proceedings to protect or retain this Easement. Notwithstanding the foregoing, due to the Federal interest in this Easement, the United States must review and approve any proposed

extinguishment, termination, or condemnation action that may affect its Federal interest in the Property.

No inaction or silence by Grantee shall be construed as abandonment of the Easement. The fact that the Property is not in agricultural use, or that agricultural use is no longer possible, is not reason for termination or extinguishment of this Easement so long as any part of the Conservation Purpose of this Easement remains possible to accomplish. Other than pursuant to eminent domain or purchase in lieu of eminent domain to acquire an interest in the Property necessary for a public use, no other voluntary or involuntary sale, exchange, conversion, transfer, assignment, lease, mortgage or other encumbrance, alienation or conveyance of any kind of all or part of the Property, or of any interest in it, shall limit or terminate or extinguish the provisions of this Easement.

(f) The grant of this Easement gives rise to a property right immediately vested in Grantee. If Grantor receives notice, formal or informal, that any public, corporate, or other authority intends to exercise or has threatened to exercise its power of eminent domain as to the Property or any portion thereof or any interest therein, Grantor shall promptly, and in any event in not less than fifteen (15) business days after receipt of such notice, give written notice to Grantee, the Department of Conservation, and the United States of such receipt together with a copy of any and all communications (including, without limitation, electronic transmissions) related to such prospective eminent domain proceedings. Grantor shall thereafter promptly provide to Grantee, the Department of Conservation, and the United States copies of all further communications related to such proceedings and cooperate with Grantee, the Department of Conservation, and the United States in responding to such proceedings.

(g) Should all or part of the Property or any interest in it be proposed for acquisition for a necessary public use by public, corporate, or other authority with the power of eminent domain ("Acquiring Entity"), Grantor and Grantee shall join in appropriate actions to recover the full value of the proposed acquisition and all incidental or direct damages resulting from the proposed acquisition as well as all other payments to which they may be entitled by law ("Proceeds"). The Acquiring Entity shall pay the Proceeds directly to Grantor and Grantee. The Proceeds resulting from such proceeding shall be divided in accordance with the proportionate values of Grantor's and Grantee's interests as specified in this Section 20, unless otherwise provided by applicable law. If Grantee receives any Proceeds whether by agreement, by court order or otherwise for a taking by eminent domain or by purchase in lieu of eminent domain of all or any portion of this Easement, those Proceeds shall be allocated among the Department, and the United States according to their Proportionate Shares.

(h) Additionally, acquisition of the Easement through the power of eminent domain is subject to the requirements of section 10261 of the California Public Resources Code, the eminent domain laws of the State of California, including section 1240.510 or section 1240.610 of the Code of Civil Procedure, federal law, and this Easement. The Property may not be taken by eminent domain or in lieu of eminent domain if the planned use is more than seven (7) years in the future (California Code of Civil Procedure section 1240.220). Purchase in lieu of condemnation, or settlement of an eminent domain proceeding, shall occur pursuant to applicable laws and procedures, including but not limited to California Government Code sections 7267.1 and 7267.2, and shall require approval of Grantee, the Director of the Department, and the United

States. Grantee, the Department, and the United States shall have an opportunity to accompany the appraiser for the Acquiring Entity when the appraiser goes on the Property with Grantor. Should this Easement be condemned or otherwise terminated on any portion of the Property, the balance of the Property shall remain subject to this Easement and reimbursement shall be pro-rated. In this event, all relevant related documents shall be updated and, if necessary, re-recorded by Grantee to reflect the modified easement area. Encumbrances junior to this Easement shall remain subordinate to the Easement as amended.

(i) If Grantee obtains payment on a claim under a title insurance policy insuring this Easement, payment shall be distributed as set forth in Section 20.

21. *Notices.*

Any notices to Grantor and Grantee required by this Easement shall be in writing and shall be personally delivered or sent by First Class Mail, to the following addresses, unless a party has been notified by the other of a change of address:

To Grantor:

_____,

_____,

To Grantee:

Eastern Sierra Land Trust
P.O. Box 755
Bishop, CA 93515

Any notices required by this Easement to be sent to the Department shall be in writing and shall be personally delivered or sent by First Class Mail, at the following address, unless a party has been notified by the Department of a change of address:

To the Department of Conservation:

Department of Conservation
801 K Street, M.S. 14-15
Sacramento, CA 95814
Attn: Sustainable Agricultural Land Conservation Program

Any notices required by this Easement to be sent to the United States shall be in writing and shall be personally delivered or sent by First Class Mail, at the following address, unless a party has been notified by the United States of a change of address:

USDA Natural Resources Conservation Service
State Conservationist
430 G Street, #4164
Davis, CA 95616-4164

22. *Grantor's Environmental Warranty.*

(a) Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee, the Department or the United States to exercise physical or management control over the day-to-day operations of the Property, or any of the Grantor's activities on the Property, or otherwise to become an "owner" or "operator" or "generator" or "arranger" with respect to the Property as those words are defined and used in "Environmental Laws" (as defined below), including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended or any corresponding state and local statute or ordinance.

(b) Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with, or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of "Hazardous Materials," as defined below, on, at, beneath or from the Property.

(c) Moreover, Grantor hereby promises to defend, hold harmless and indemnify Grantee, the Department and the United States against all litigation, claims, demands, penalties and damages, administrative actions, testing, investigation, remediation, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee, the Department or the United States to Grantor with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Property by Grantee.

(d) "**Environmental Law**" or "**Environmental Laws**" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, Hazardous Materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(e) "**Hazardous Materials**" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, natural gas, natural gas liquid, liquefied

natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), drilling fluids, produced waters, and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal sources, asbestos-containing materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment or any other material defined and regulated by Environmental Laws.

(f) If at any time after the effective date of this Easement there occurs a release, discharge or other incident in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take any steps that are required of Grantor with respect thereto under federal, state, or local law necessary to ensure its containment and remediation, including any cleanup.

23. Grantor's Title Warranty; No Prior Conservation Easements.

Grantor represents and warrants that Grantor has good fee simple title to the Property, including the mineral estate, free from any and all liens or encumbrances, except those set forth in Exhibit E ("**Prior Encumbrances**") attached hereto and made a part hereof by this reference, and hereby promises to defend the same against all claims that may be made against it. All financial liens or financial encumbrances existing as of the date of the execution of this Easement (excepting liens for property taxes which are not yet due and payable) have been subordinated to this Easement. Grantor represents and warrants that the Property is not subject to any other conservation easement whatsoever.

If Grantor discovers at any time that any outstanding interest in the Property exists that is not disclosed herein, Grantor shall immediately notify Grantee and the Department of the discovery, and shall take all necessary steps to ensure that the interest is made subject to this Easement and that the existence of the interest or the exercise of any rights under it does not interfere with the Conservation Purpose of this Easement.

24. General Provisions.

(a) *Interpretation.* This Easement shall be interpreted under the laws of the State of California and the United States, as applicable, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purpose. References to authorities in this Easement shall be to the statute, rule, regulation, ordinance or other legal provision that is in effect at the time this Easement becomes effective. No provision of this Easement shall constitute governmental approval of any improvements, construction or other activities that may be permitted under this Easement. **Notwithstanding any other provision of the Easement, the parties agree that all present and future use of the Property is and will remain subject to the terms and conditions of this Easement, provided that if the Easement contains terms and conditions that are consistent with, but more restrictive than the conditions and terms in Section 3 and Section 7, those more restrictive terms and conditions shall control.**

(b) *Successors; Termination of Rights and Obligations.* The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, agents, assigns, lessees, and any other person claiming under them, and shall continue as a servitude running in perpetuity with the Property. A party's rights and obligations under this Easement terminate upon transfer of that party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(c) *Severability.* If any term, provision, covenant, condition or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective the remainder of the Easement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

(d) *Perpetual Duration; No Merger or Forfeiture.* Pursuant to California Civil Code at Part 2, Chapter 4 (commencing with section 815), this Easement shall run with the land in perpetuity. 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 the Property, or any portion thereof, to Grantee, or its successors or assigns. It is the express intent of the parties that this Easement not be extinguished by, or merged into, or modified, or otherwise deemed affected by any other interest or estate in the Property now or hereafter held by Grantee or its successors or assigns. In the event that Grantee shall ever acquire the fee simple title to the Property, Grantee will assign and convey its interest under this Easement to a third party in accordance with Section 15.

(e) *No Waiver.* Enforcement of the terms of this Easement is at the discretion of Grantee. Any forbearance by Grantee to exercise its rights under this Easement or any failure of Grantee to discover a violation or potential violation shall not be deemed or construed to be a waiver by Grantee of such term or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. No forbearance or waiver by Grantee of any default or breach, whether intentional or not, shall be deemed to extend to any prior or subsequent defaults or breaches, nor shall it affect in any way any rights arising by virtue of any prior or subsequent occurrence.

(f) *Joint Obligation.* If and when Grantor consists of more than one party, the obligations imposed by this Easement upon Grantor shall be joint and several.

(g) *Recording.* This Easement and any amendments hereto shall be recorded in the Official Records of the County of ____, State of California.

(h) *Entire Agreement.* This Easement is the final and complete expression of the agreement between the parties with respect to this subject matter. Any and all prior or contemporaneous agreements with respect to this subject matter, written or oral, are merged into and superseded by this written instrument.

(i) *Exhibits and Recitals.* All of the exhibits attached to this Easement are hereby incorporated into this Easement by this reference. All recitals in this Easement are accurate and shall

constitute an integral part of this Easement, and this Easement shall be construed in light of those recitals.

(j) *Administrative Costs.* The administration of this Easement by Grantee requires considerable time and expense. Grantee shall bear all routine administrative expenses related to the Easement including, but not limited to the following activities: routine easement monitoring and reporting, and notices of permitted activities, and routine staff work related to Grantor's refinancing and or sale of the Property. Grantor agrees to pay the reasonable expenses of Grantee for non-routine administration of the Easement including, but not limited to actions requiring Grantee's prior approval, enforcement of Easement violations, requests for estoppel certificates, and any Easement amendment requests of Grantor.

(k) *Counterparts.* The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) *Estoppel Certificate.* In connection with a sale or financing of the Property, Grantee shall, upon not less than thirty (30) days' prior written notice from Grantor, execute and deliver to Grantor or any person designated by Grantor, an estoppel certificate in reasonable form, stating the following: (1) that Grantor is not in violation of this Easement or, (2) if Grantor is in violation, the nature of the violation. Any such statement may be conclusively relied upon by the prospective purchaser, assignee, sublessee, lender or other person or entity reasonably requesting the estoppel certificate.

(m) *Informational Signs.* Subject to Grantor's consent, which will not be unreasonably withheld, Grantee may erect and maintain one or more signs in a prominent location(s) on the Property, visible from a public roadway and/or public land, bearing information indicating that the Property is subject to an Easement held by Grantee, and identifying the Property as a participant in the Agricultural Conservation Easement Program and Department of Conservation Sustainable Agricultural Land Conservation Program. The design and wording of the information on the sign(s) shall be determined by Grantee after review with the Department and Grantor, but shall clearly indicate that the Property is privately owned.

(n) *Warranty of Authority.* Each person executing this Easement on behalf of a party represents that such person has the requisite authority to bind the party on whose behalf he or she is signing this Easement and that all requisite approvals of such party have been obtained.

25. *Acceptance.*

As attested by the signature of its Executive Director affixed hereto, as authorized by Grantee's Board of Trustees, in exchange for consideration, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Grant Deed of Agricultural Conservation Easement.

To Have and To Hold, this Grant Deed of Agricultural Conservation Easement unto Grantee, its successors and assigns, forever.

In Witness Whereof, Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR

_____,
a ____ limited liability company

_____,
a ____ limited liability company

By: _____

By: _____

Title: _____

Title: _____

GRANTEE

EASTERN SIERRA LAND TRUST,
a California nonprofit public benefit corporation

By: _____
_____, Executive Director

ACKNOWLEDGMENTS

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

**APPROVAL OF THE INCORPORATION OF THE
MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS**

BY THE NATURAL RESOURCES CONSERVATION SERVICE

The Natural Resources Conservation Service, United States Department of Agriculture, an agency and Department of the United States Government, hereby approves the foregoing MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS incorporated within this GRANT DEED OF CONSERVATION EASEMENT.

State Conservationist
Natural Resources Conservation Service
United States Department of Agriculture

STATE OF _____

COUNTY OF _____

On this day of _____, 201____, before me, the undersigned, a notary public in and for the State, personally appeared _____ known or proved to me to be the person whose signature appears above, and who being duly sworn by me, did say that he or she is the State Conservationist of the Natural Resources Conservation Service, United States Department of Agriculture, is authorized to sign on behalf of the agency and acknowledged and accepted the rights conveyed by the deed to be his or her voluntary act and deed.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

Notary Public, State of _____
My registration No.: _____
My Commission Expires _____

List of Attachments:

Exhibit A (Legal Description)

Exhibit B-1 (Property Map)

Exhibit B-2 (Farmstead Area)

Exhibit C (Water Rights)

Exhibit D (Acknowledgement of Condition and Receipt of Baseline Documentation Report)

Exhibit E (Prior Encumbrances)

EXHIBIT A
Legal Description

EXHIBIT B-1
Property Map

EXHIBIT B-2
Farmstead Area

EXHIBIT C
Water Rights

SUMMARY OF WATER RIGHTS

Priority Source	CFS	Acres	Days Storage	<u>Acre Feet Required</u> Per Acre	<u>Total</u>

EXHIBIT D
ACKNOWLEDGEMENT OF CONDITION
AND RECEIPT OF BASELINE DOCUMENTATION REPORT

_____, _____, on behalf of _____, and _____, _____, on behalf of _____, jointly certify as Grantor, and _____, Executive Director, representing Eastern Sierra Land Trust, certifies as Grantee of the Easement, as follows:

- a) Each is familiar with the condition of the Property, and
- b) Each does hereby acknowledge and certify that the Baseline Documentation Report, dated _____, and all of its inclusions, is an inventory of the natural resources of the Property and an accurate representation of the condition of the Property as of the date of the Easement.

Duplicate originals of the Baseline Documentation Report were signed and delivered by each of Grantor and Grantee, and each received a duplicate original of the Baseline Documentation Report.

GRANTOR

_____,
a ___ limited liability company

_____,
a ___ limited liability company

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

GRANTEE

EASTERN SIERRA LAND TRUST,
a California nonprofit public benefit corporation

By: _____
_____, Executive Director

Date: _____

EXHIBIT E
Prior Encumbrances