

**DRAFT DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT, hereinafter referred to as “**Conservation Easement**”, is made and entered into this \_\_\_ day of \_\_\_\_\_, 2023, and is executed by and between “**Landowner**”, and the **State of Utah, by and through the Department of Agriculture and Food, a government entity**, having an address of 4315 South 2700 West, TSOB South Bldg., 2nd Floor, Salt Lake City, UT 84129-2128, *hereinafter* referred to as “**Holder**”. Landowner and Holder, *hereinafter* collectively referred to as the “**Parties**”, acknowledge that the Conservation Easement is acquired to protect and enhance the agricultural uses and related conservation values by restoring and conserving the Property thereby preserving and protecting in perpetuity the multiple interrelated land features which are critical to agricultural working lands.

EXHIBITS

A	Legal Description of Property, including Water Rights
B	Property Map
APPENDIX 1	Conservation and Grazing Management Plan (“CGMP”)

WITNESSETH

WHEREAS, Landowner is the owner of certain real property in XXX County, Utah, encompassing XXX acres, more or less, more particularly described in the attached Exhibit A and depicted in Exhibit B attached hereto and incorporated herein by reference as the “Property”; and

WHEREAS, the purpose of this Conservation Easement is to protect or enhance forever the agricultural value of the certain real property described below; and

WHEREAS, the Property additionally has significant wildlife habitat, hydrological, ecological, and scenic, values as recognized in the Utah Land Conservation Easement Act, (Utah Code Ann. §§ 57-18-1 to 57-18-7); and Landowner intends to convey this Conservation Easement under the statutory provisions of that Act and other applicable provisions of Utah statutory and common law; and WHEREAS, all these agricultural, ecological, scenic, wildlife, timber, and water quality values, hereinafter referred to as the “Conservation Values”, are worthy of conservation and of great importance to Landowner, the Holder, and the State of Utah; and

WHEREAS, Landowner desires and intends that the Conservation Values of the Property be conserved and maintained by the continuation, initiation, or introduction of activities on the Property that shall not compromise the Conservation Values, including such activities as ranching, grazing, and equestrian uses, hereinafter referred to as “Primary Uses”; and

WHEREAS, Landowner, as the fee simple owner of the Property, holds the right to identify, conserve, enhance, and protect in perpetuity the Conservation Values of the Property; and

WHEREAS, Landowner desires and intends to transfer certain subset of such rights to the Holder, while protecting Landowner's right to use the Property for the Primary Uses in the manner set forth in this Conservation Easement; and

WHEREAS, the State of Utah has recognized the importance of both public and private efforts to conserve and protect the state's natural resources by the enactment of Utah Code Ann. §§ 57-18-1 to 57-18-7; and

WHEREAS, the Parties desire that any interpretation of this Conservation Easement be construed to further the conservation, protection, and enhancement of the Property's Conservation Values; and

WHEREAS, the Holder undertakes the responsibility to conserve and protect agricultural areas, natural areas and significant wildlife habitat for ecological, scientific, recreational, and educational purposes; and the Holder is a non-profit, tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, and a qualified conservation easement holder under Utah Code Ann. §§ 57-18-3; or the Holder is a qualified organization under Section 170 of the Internal Revenue Code to receive and hold conservation easements; and

WHEREAS, the specific Conservation Values of the Property are documented in an inventory of relevant features of the Property, hereinafter referred to as the Baseline Inventory, incorporated by this reference, which consists of reports, maps, photographs, and other documentation that the Parties collectively agree, provides a representation of the Property at the time of this Agreement and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to Utah Code Ann. §§ 57-18-1 to 57-18-7, and other applicable provisions of Utah statutory and common law, Landowner hereby grants, conveys and warrants to the Holder this perpetual Conservation Easement over the Property as set forth herein, and Landowner and its respective heirs, successors, agents, assignees, lessees and any other person claiming any interest in the Property must comply with all terms and conditions of this Conservation Easement. The scope of this Conservation Easement is set forth in this Deed.

#### SECTION 1 - RIGHTS OF THE HOLDER

The total property owned by Landowner, as described in Exhibit A and as depicted in Exhibit B, will be encumbered by this Conservation Easement, subject to all existing rights and encumbrances of record. The rights conveyed by Landowner to the Holder to perpetually maintain the Conservation Values of the Property in this Conservation Easement include the following:

- A. Identification and Protection. The Holder has the right to identify, conserve, protect, enhance, and enforce the Conservation Values on the Property in perpetuity, in the manner set forth in this Conservation Easement, subject to Landowner's rights reserved as specifically set forth

in this Conservation Easement.

B. Access.

Public Access. The general public is not granted access to the Property under this Conservation Easement. Landowner reserves the right to prohibit trespass upon the Property by the general public. Any permission or access granted to a member of the general public to or off the Property shall not constitute a right of ingress and egress or similar easement without Landowner and Holder's prior written approval.

Access by Holder to Monitor Conservation Easement. In general, Holder agrees to provide advance notice and receive permission from Landowner or Landowner's agent prior to accessing to the Property annually to inspect, monitor, and enforce compliance with this Conservation Easement. Permission shall not be unreasonably withheld by Landowner when requested by Holder.

The Holder shall have the unilateral right of immediate entry upon the Property, beyond the regular annual inspection, if, in the Holder's sole discretion, such entry is necessary to prevent immediate damage, harm, or threat to the Conservation Values of this Conservation Easement.

Grant of Access Across Adjacent Property. Without limiting the generality of the grant of this Conservation Easement to Holder, and for good and valuable consideration the receipt and sufficiency of which are acknowledged, Landowner expressly conveys and assigns to Holder a permanent non-exclusive easement of right of way over and across any adjacent property owned by Landowner for the purpose of providing ingress and egress to the Property for all purposes related to this Conservation Easement (the Access Easement) but only in those instances in which there are no other reasonable means of access. The Access Easement is an easement appurtenant to the Property and to this Conservation Easement and exists in favor of Holder, its successors, or assigns. Landowner binds itself and its assigns to warrant and forever defend the Access Easement for Holder, its successors, assigns, and assigns. Landowner reserves the right to specifically locate the Access Easement across the Adjacent Property so long as such located easement provides reasonable access to Holder to the Property. Holder is granted the right, but not the obligation, to maintain and reasonably improve the Access Easement. The extent of the Access Easement shall allow for access by foot and/or by vehicle, as necessary.

C. Conservation, Enforcement, Injunction, and Restoration. The Holder has the right to prevent any activity on or use of the Property which is inconsistent with this Conservation Easement. The Holder is entitled to take any legal action to prevent such activity, including but not limited to obtaining an injunction in a court of competent jurisdiction. The Holder further has the right to enforce the reasonable restoration of such areas or features of the Property damaged or impaired by any activities or omissions to prevent such activities inconsistent with this Conservation Easement. The Holder shall be entitled to recover its reasonable attorney's fees in enforcing its rights under this Conservation Easement.

D. Signs. The Holder and Landowner have the right to place signs on the Property which

identify the Property as being protected by this Conservation Easement. The number and location of the signs shall be determined by Holder, subject to Landowner's approval, which shall not be unreasonably withheld. Signs located on the property or fencing shall not exceed twenty-four (24) by eighteen (18) inches maximum.

## SECTION 2- GENERAL EFFECT OF CONSERVATION EASEMENT

- A. Perpetual Restrictions. This Conservation Easement shall run with and encumber the title to the Property in perpetuity and shall bind Landowner and all future owners, assigns, and grazing tenants or any other persons/entities claiming an interest in or use of the Property.
  
- B. Permitted Uses in General. This Conservation Easement shall confine the use of the Property to activities such as the Primary Uses or Permitted Uses, consistent with the purposes and terms of this Conservation Easement. Any activity on or use of the Property inconsistent with the purposes or terms of this Conservation Easement or detrimental to the Conservation Values expressed in this Conservation Easement, in the sole discretion of Holder, is expressly prohibited. Holder and Landowner agree to work together to determine whether a use is permitted under the terms of the Conservation Easement. In the event of a dispute, Holder shall have the final say, after consultation with Landowner, as to whether a use is consistent with the terms of this Conservation Easement.
  
- C. Dedication of Property. Pursuant to the terms of Utah Code Ann. §§ 57-18-1 to 57-18-7, the Property conserved by this Conservation Easement, as described in Exhibit A and B, is declared open space, agricultural and natural land, and may not be converted or directed to any uses other than those provided in this Conservation Easement.

## SECTION 3 - PERMITTED USES AND PRACTICES

The uses and practices described in this Section are allowed and may not be precluded or prevented by this Conservation Easement, except as provided for in this Conservation Easement. The uses and practices may be precluded when this Conservation Easement requires the Holder's prior approval of an activity as provided in Section 4 of this Conservation Easement or when such uses or practices are conducted or allowed to take place in a manner which violates the terms of this Conservation Easement, pose a serious threat of material damage to the Conservation Values protected by this Conservation Easement, or constitutes a prohibited use or practice as set forth in Section 5 of this Conservation Easement.

- A. Construction of Buildings and Structures. Construction or placement of any Buildings or Structures is prohibited except as provided below in this Section 3.A. As used throughout this Conservation Easement, the term Building means an enclosed space with walls and a roof associated with historical or common ranching activities, but is limited to barns, sheds, horse stalls, and other Holder approved agricultural buildings limited to the existing building envelope. As used throughout this Conservation Easement, the term Structure means a human-made improvement, limited to shade structures corrals, well houses, coops and other Holder approved agricultural buildings limited to the existing

building envelope, that is not a Building, fence, or road. The term Structure will not be deemed to include water related structures, including, without limitation, water tanks, wells or pump houses.

1. Maintenance, repair, and remodeling of the existing Buildings and Structures as documented in the Report are permitted. If a Building or Structure on the Property is destroyed, Landowner may replace it with a Building or Structure in the same location and of similar size, function, and capacity, unless alternative size, function, and capacity have received Holder's prior written approval, which approval may be granted or withheld in Holder's reasonable discretion.
- B. Construction, maintenance, repair, remodeling, replacement, and rebuilding of new Buildings and new Structures are permitted, provided that (i) all such new Buildings and Structures are associated with historical or common ranching activities, (ii) all such new Buildings and Structures must be built within the Building Envelope identified on Exhibit B and (iii) construction within the Building Envelope must be located no closer than 200 feet to a water body or wetland. Notwithstanding the immediately preceding sentence, new agricultural Structures may be constructed and maintained outside the Building Envelope with Holder's prior written approval, which approval may be granted or withheld in Holder's reasonable discretion, and provided they are no closer than 200 feet to a water body or wetland. New Structures. Construction, maintenance, repair, and remodeling of a new "Nativity Barn" structure on the property is permitted but may be no larger than 144 square feet, single level, and provided it is no closer than 200 feet to a water body or wetland and have received Holder's prior written approval, which approval may be granted or withheld in Holder's reasonable discretion. No portion underneath, surrounding, or adjacent to the Nativity Barn may be paved or covered with concrete, asphalt, or any other impervious material. In addition, Holder's prior written approval, which approval may be granted or withheld in Holder's reasonable discretion, is required for any plans for access to the Nativity Barn to ensure that the Conservation Values are protected.
- C. Lease of Property for Grazing. Landowner reserves the right to lease or grant the right to graze on the Property, provided that any such lease or other interest shall at all times remain consistent with and subject to the terms of the Conservation Easement. Each lease or contract shall specifically require that all tenants conduct themselves on the Property in accordance with the Conservation Grazing Management Plan (CGMP, below) and the terms of this Conservation Easement. If Landowner permits leasing or granting of any interest in the property, Landowner shall be responsible for any costs or fees, including attorney fees, incurred by Holder in enforcing the terms of the Conservation Easement.
- D. Conservation and Grazing Management Plan. Landowner and Holder shall prepare a ("CMGP" or "Plan") for the Property. The Plan shall be prepared, completed, and incorporated into this Conservation Easement as Appendix 1. The purpose of the Plan is to ensure that the easement's conservation and agricultural values are protected consistent with the terms of the Conservation Easement. The Plan will include goals, measurable objectives, and strategies for the protection of the conservation values of the Property as required in the Conservation Easement. The Plan will also include specific goals, measurable objectives, practices, and strategies for ensuring that agricultural livestock management and pasture management practices (such as soil health and protection of

riparian areas) are being conducted in accordance with the Plan's grazing management practices.

Landowner and Holder shall update the CMGP every five (5) years, as well as at any time the Property conditions change or ownership of the Property changes. The CMGP may also be revised if, upon inspection, the Holder finds that Landowner has failed to comply with any provision set forth in the Plan. Any changes must be approved by the Landowner and Holder. Holder shall have the right to enter upon the Property in order to monitor compliance with the Plan. The Plan will be on file with Holder.

Best Management practices for the Property will be stated in the CMGP for the following:

1. Ranching Activities. Landowner may use the Property for historical or common ranching activities, including grazing, feeding, breeding, raising, and managing livestock, provided these activities do not materially jeopardize the Conservation Values.
2. Livestock Grazing. It is the intent of this Conservation Easement that the Landowner be allowed to continue historical practices of grazing livestock. Generally, the term "livestock" includes traditional domesticated livestock. Good range stewardship and proper management of domestic livestock are integral to the conservation goals of this Conservation Easement. Livestock grazing shall meet a degree of use described as good-excellent by the United States Department of Agriculture-Natural Resource Conservation Service and shall not materially degrade or deteriorate the range resources and wildlife habitat, aquatic resources and riparian habitats.

All grazing activities will be conducted in accordance with the long-term management objectives which will include grazing practices, rotation, AUM's, etc., in accordance with best management practices in the CMGP.

Should Landowners change grazing practices to the extent that it violates the Conservation Values this Conservation Easement is intended to protect, the Holder shall have the right to restrict said agricultural practices. Nothing herein shall be construed to restrict grazing activities by Landowner in a manner that would preclude or prohibit Agricultural Use Valuation ("Greenbelt") of the Property under Utah law.

If Landowner chooses to lease grazing rights or privileges to a third party, Landowner must inform Holder prior to entering into the lease agreement. Holder will require a signed acknowledgement from the third party that the third party will comply with all requirements set forth in the CMGP regarding livestock management and grazing area uses. It is Landowner's responsibility to ensure that the third party does not violate the terms of this Conservation Easement and CMGP.

3. Forest Management. Maintenance of a healthy forest and tree cover is integral to wildlife, wildlife habitat, and water quality provisions of this Conservation Easement. All activities affecting the forest and tree cover will be conducted in a manner that maintains long term forest health and sustains and perpetuates the mix of naturally occurring species in representative ages and group sizes, in accordance with good and sound

agricultural practices and with best management practices.

Landowner reserves the right to cut, harvest and process trees and vegetation on the Property in accordance with the CMGP for the following purpose:

- i) cut trees for posts and poles for use on the Property;
- ii) cut and gather dead, dying and down trees for firewood for personal use;
- iii) remove vegetation which constitute a hazard to persons, property, or roads, or to prevent personal injury and property damage;
- iv) to control insects and diseases;
- v) to remove invasive species and to restore native species;
- vi) to mark boundaries;
- vii) to clear land for use by livestock, including construction of a shade pole structure under section 3(c) of this Conservation Easement;
- viii) planting and maintaining native trees, bushes, and grasses to protect, preserve and enhance wildlife habitat values of the Property is permitted; and
- ix) to conduct controlled burns along fence lines and on other parts of the Property, provided that such activities are conducted in the normal course of agricultural operations and do not interfere with the Conservation Values of the Property.

- E. Educational Activities. Landowner may conduct educational activities that are both non-developed and non-consumptive, such as bird watching, wildlife observation, hiking, bicycling, horseback riding, cross-country skiing, family camping, and other traditional non-motorized recreational activities, and picnicking are permitted if they do not negatively affect the natural habitat, grazing uses, wildlife populations and related Conservation Values. For purposes of this Conservation Easement, a live nativity shall be considered an educational activity in-line with the Conservation Values of the Property.
- F. Ranching Facilities. Landowner may maintain, replace, and repair the existing fences, roads, corrals, barns, sheds and other improvements located on the Property as of the date of this Conservation Easement, as identified in the Baseline Inventory referred to in Section 9, as may be necessary for ranching and the other uses permitted by this Conservation Easement, provided such fence, road, corral, barn, shed, or improvement is maintained, replaced or repaired in its original approximate size and general location. If any or all of such facilities are removed or destroyed, Landowner may replace them with similar structures of the same approximate size in the same general location.

Maintenance of existing roads, documented in the baseline inventory, is permitted, however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Holder, and necessary to carry out the agricultural operations or other permitted uses on the Property.

Landowner may construct fences along the exterior border of the Property without prior approval of the Holder. Drift fences may be constructed as necessary to control drifting snow. Big game proof fences are permitted around harvested crops (e.g. haystacks) or domestic gardens. No other big game proof fences will be constructed on the Property or on the exterior boundary of the Property absent permission by Holder, which will not be

unreasonably withheld.

Replacement or repair of existing fences within the Property boundaries and construction of new fences on the Property's exterior boundary shall be constructed in such a manner and with such materials as not to unduly endanger wildlife safety or to materially inhibit wildlife movement (5' or less maximum height (electric or traditional), wildlife friendly fencing is allowed on exterior boundary). The Holder's prior written approval, consistent with Section 4 of this Conservation Easement, must be obtained prior to replacing, repairing, or constructing any fencing on the Property that unduly endangers wildlife safety or that materially inhibits wildlife movement.

- G. Hunting, Trapping, and Fishing. The landowner retains the right to allow or disallow any hunting, trapping, and fishing on the Property to the extent such activities are consistent with state and federal laws and regulations. Only non-lead ammunition may be used on the Property.
- H. Water Rights. For purposes of this Conservation Easement the Property includes all water, and water rights beneficially used or conditionally decreed for use on the Property that are owned by Landowner, 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, hereinafter referred to as the Water Rights. The Water Rights include surface water rights and groundwater rights, whether tributary or non-tributary, including, but not limited to, those water rights or interests specifically described in Exhibit A, attached hereto.

Landowner shall retain and reserve the right to the water rights and water shares identified in Exhibit A for the present and future use in agricultural uses on the Property. Landowner shall not change point of diversion or otherwise separate such rights or shares of water from the property unless approved to do so by Holder to further the Conservation Values. Landowner hereby acknowledges the water rights and shares associated with the irrigation of the subject Property and identified in Exhibit A, but not limited to Exhibit A, shall only be used for beneficial use in agricultural production as well as for wildlife habitat improvement for wildlife, birds, amphibians, fish, etc.

#### APPURTENANT WATER SHALL NOT BE SEVERED FROM THE PROPERTY

Should Landowner sell or lease the property, all water rights and shares identified in Exhibit A shall be transferred with the property, for use on the Property. Landowner hereby acknowledges and accepts the Department of Agriculture & Food holds a "notice of interest" on the water identified in Exhibit A.

Prior to closing, Landowner shall provide UDAF with a copy of the Water-Sharing Agreement with the neighboring landowners for UDAF's records. Landowner and Holder agree to work cooperatively to ensure that the Water-Sharing Agreement is included as an exhibit for purposes of this Conservation Easement. Holder shall include the Water-Sharing Agreement in creating the Baseline Inventory and shall not consider the Water-Sharing Agreement as written as a severance of water from the Property. Future grants of water



usage or modifications to the Water-Sharing Agreement must be approved by Holder, to ensure that the water rights attached to, or located on, the Property are not intentionally or unintentionally severed from the Property.

- I. Water Resources. Landowner may improve water resources on the Property if such improvement is necessary or beneficial to grazing livestock, wildlife, or fisheries on the Property. Such improvements must be consistent with the terms of this Conservation Easement and the Conservation Values protected therein, as well as comply with all applicable laws and regulations. Such improvements include dug-out development and watering tank installation, provided the improvement does not result in any water pollution having a detrimental effect on fish, aquatic life, wildlife, their habitat, or their passage. Landowner must notify Holder prior to making any water resource improvement to ensure that it meets state and federal guidelines and does not impair or harm the Conservation Values.

Upon approval by the Holder as required in Section 4 of this Conservation Easement, Landowner may also carry out activities to restore and enhance aquatic, terrestrial, and wetland habitat for fish and wildlife use and production. Such activities may include stream bank stabilization, improvement to the quality and quantity of water available, and development of watering facilities and ponds; provided such activities are conducted in a manner consistent with accepted waterway stabilization, rehabilitation, and enhancement methods, state and federal laws and regulations, and the terms and intent of this Conservation Easement.

Water usage or distribution on the Property shall not be altered in such a manner as to compromise the terms of this Conservation Easement or the Conservation Values protected therein, as identified in the Baseline Inventory.

Any water rights or shares that are obtained by landowner to benefit the Conservation Easement after the Conservation Easement has been signed shall conform with the Water Rights and Water Resources provisions and restrictions set forth in this Conservation Easement. Landowner must obtain permission from Holder prior to obtaining such rights or shares, which permission shall not be unreasonably withheld by Holder.

- J. Agrichemicals and Biological Controls. Landowner may use agrichemicals and biological controls on the Property, including but not limited to insects, fertilizers, biocides, herbicides, pesticides, insecticides, and rodenticides. Agrichemical and biological controls may only be used in accordance with all applicable laws, and in those amounts and with that frequency of application necessary to accomplish reasonable ranching and grazing objectives, in accordance with application labeling instructions and use. The use of such agents shall be conducted in a manner to minimize any adverse effect on the natural values of the Property and to avoid any impairment of the natural ecosystems and their processes.
- K. Weeds. Landowner is responsible for the control of noxious weeds and invasive plant species on the Property in accordance with all applicable Utah State laws. Landowner shall not knowingly introduce on the Property any species designated as noxious or invasive by any local, state, or federal agency.

- L. Firearms. Discharge of firearms is prohibited on the Property, unless for target shooting, lawful hunting, or otherwise necessary for wildlife management, livestock operations, or predator control, in which case, lead shot is prohibited. Family activities such as Air Soft, Paint Ball and other non-commercial, non-lethal activities are permitted, so long as they do not impair the Conservation Values of the Property.
- M. Predators. Landowner may use legal methods to control predatory and problem animals as permitted by state and federal laws. Lead shot is prohibited.
- N. Residual Rights. Except as expressly limited by this Conservation Easement, Landowner may exercise and enjoy all rights as owner of the Property, including the right to use the Property for any purpose not inconsistent with this Conservation Easement.
- O. Improvements. No fixed, permanent structure, with the exception of fencing, shall be erected on the Property, whether included in the Building Envelope or not, except as otherwise provided in this Conservation Easement. This restriction shall extend to agricultural accessory buildings or any permanent or semi-permanent structure (such as covered or enclosed livestock sheds).

#### SECTION 4 - PRIOR APPROVAL OF ACTIONS BY HOLDER

Activities on the Property are presumed allowed unless specifically prohibited by the Conservation Easement or CMGP, or if allowed by written authorization from the Holder. If any provision of this Conservation Easement requires Landowner to obtain the Holder's approval prior to performing any act or undertaking any enterprise, Landowner shall not perform that act or undertake that enterprise until the notice and approval provisions of this Section have been fully satisfied. Nothing in this Section shall in any way prohibit or limit the Holder's ability to obtain writs or injunctive relief relating to any violation of this Conservation Easement.

- A. Landowner's Written Notice. Prior to the commencement of any activity, use or enterprise which requires the Holder's approval, Landowner will first notify the Holder in writing of the proposed activity, use or enterprise. The notice must fully inform the Holder of all material aspects of the proposed activity, use or enterprise. Landowner will send such notices to the Holder by registered or certified mail, return receipt requested, addressed to the Holder address set forth above or to such other address as the Holder may designate in writing.
- B. Holder's Response. The Holder shall have thirty (30) days from the date such notice is received (as indicated by the registered or certified return receipt) to review the proposed activity, use, or enterprise and to notify Landowner of any objections it may have to the activity, use, or enterprise. The thirty (30) day period shall not begin for purposes of this paragraph until such time the Holder has received adequate information from Landowner to effectively evaluate the proposed activity. In the event the Holder requires additional information to evaluate the proposed activity, the Holder shall request the information from Landowner as soon as practical as and in any case not later than thirty (30) days after the receipt of the notice of the proposed activity.

The objections, if any, shall be based upon the Holder's opinion that the proposed activity, use or enterprise is likely to cause material damage to the Property's Conservation Values or is otherwise inconsistent with the purpose and/or provisions of this Conservation Easement. If, in the Holder's judgment, the proposal presented by Landowner can be modified to avoid material damage to the Conservation Values and otherwise comply with the purpose and provisions of this Conservation Easement, then the response shall inform Landowner how the proposed activity, use or enterprise may be modified to conform with this Conservation Easement. Except as provided in Subsection C of this Section, Landowner may commence the proposed activity, use, or enterprise only after it receives the Holder's express written approval, and only in the manner explicitly proposed by the Landowner and approved by the Holder.

Holder will send such response to Landowner by registered or certified mail, return receipt requested, addressed to Landowner address set forth above or to such other address as Landowner may designate in writing.

Landowner must provide Holder with a valid physical address, email address and telephone number to receive notice from, and to communicate with, the Holder. It is Landowner's affirmative duty to advise Holder of any changes to this information. Holder shall not be held liable for Landowner's failure to update any contact information or for any actions taken, of which Landowner was advised through its current contact information.

- C. Force Majeure. Landowner shall not be obligated to send a notice to the Holder, and the Holder shall not be entitled to bring an action against Landowner for undertaking any prudent activity in a bona fide emergency situation to prevent, abate, or mitigate the immediate threat of significant damage to the Property resulting from causes beyond Landowner's control, including fire, flood, storm, and earth movement. Landowner will promptly notify the Holder of any injury to the Property caused by such events or the efforts to prevent, abate, or mitigated any damage caused by such events.

#### LANDOWNERS

#### HOLDER

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TSOB South Bldg., 2nd Floor  
Salt Lake City, UT 84129-2128

Email: [rvaldez@utah.gov](mailto:rvaldez@utah.gov)

Tel. 801-982-2200

#### SECTION 5 - PROHIBITED USES AND PRACTICES

Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement and which is likely to cause material damage to the Conservation Values is expressly prohibited. Landowner agrees that the following uses and practices, though not an exhaustive

recital of inconsistent uses and practices, are explicitly deemed inconsistent with the purposes of this Conservation Easement, and shall be prohibited.

- A. Subdivision. Separate conveyance of a portion of the Property or division or subdivision of the Property is prohibited. Notwithstanding the fact that, as of the Effective Date, the Property might consist of separate legal parcels, the terms and conditions of this Conservation Easement must forever apply to the Property as a whole, and the Property may not be sold, transferred, or otherwise conveyed except as a whole, intact, single piece of real estate, it being expressly agreed that neither Landowner nor Landowner's personal representatives, heirs, successors, or assigns may sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property. Notwithstanding the foregoing, boundary line adjustments are permitted with the prior written consent of Holder, which consent will not be unreasonably withheld, in the case of technical errors made in the legal description or in any applicable survey of the Property.

Regardless of anything to the contrary in the foregoing paragraph, ownership of the Property may be held in the form of undivided interests as tenants in common, whether by choice or by operation of any Applicable Laws (defined below), but no owner of an undivided interest in the Property will have the right of exclusive occupancy or exclusive use of any separate portion of the Property, or any right to have the Property partitioned in kind, whether pursuant to any Applicable Law or otherwise.

- B. Game Farming or Game Farm Animals. Landowner shall not construct or operate a game farm on the Property, nor shall Landowner raise or hold game farm animals on the Property. Game farm animals include game farm animals regulated or prohibited by the Utah Legislature, the Utah Division of Wildlife Resources, or the Utah Department of Agriculture and Food.
- C. Wildlife Disturbance or Harassment. Harassment of wildlife on the Property by people, vehicles or domestic animals is prohibited.
- D. Alteration of Watercourses and Topography. Landowner shall not change, disturb, alter, excavate, or impair any watercourse or wetland or the topography of the ground on the Property, except as expressly permitted by Section 3, Subsection I of this Conservation Easement.
- E. Non-native Species. Landowner shall not introduce, into the general area of the Property, any non-native or non-naturalized plant or animal species other than those generally accepted for ranching, farming, residential landscaping and domestic gardening, except as provided for in Section 3 of this Conservation Easement.
- F. Construction. The Landowner shall not construct any structures or facilities on the Property except as specifically provided for in Section 3, or as otherwise allowed for in this Conservation Easement.
- G. Off-Road Vehicles. Landowner shall not use vehicles off the existing roads and travel ways in a manner which may result in; 1) significant soil erosion or compaction, 2) adverse

impacts to the natural appearance of the Property, 3) interference with vegetation, or 4) interference with the natural habitats of animal species occurring on the Property. The parties recognize, however, that use of off-road vehicles may be necessary in ranch operations and such limited use is therefore expressly permitted, provided that all reasonable efforts are made to minimize any adverse impact of the use consistent with the terms and intent of this Conservation Easement.

- H. Commercial Feed Lot. Landowner shall not establish or maintain any commercial feed lot on the Property. For purposes of this Conservation Easement, a commercial feed lot is defined as a permanently constructed, confined area or facility, within which the land is not grazed or cropped annually, used for purposes of engaging in the business of receiving and feeding livestock for hire.
- I. Dumping. Trash, debris, sewage, ashes, sawdust, and other non-compostable refuse shall not be dumped or otherwise disposed of on the Property, except that generated by normal ranching operations, and as permitted by applicable state and federal laws.
- J. Power Lines, Utilities, or Communications Towers. The placement, erection, or construction of any above-ground power lines or granting of any easement on or across the Property to a third-party that may result in above-ground power lines is prohibited. Additional utility structures and systems are prohibited, unless such structures or systems are necessary for permitted ranching operations or residential use. Absent the Holder's prior approval as required in Section 4 of this Conservation Easement, any additional permitted utility structures or systems must be buried and the disturbed area restored. The construction of communications and/or broadcast towers or structures or granting of any easement to a third party that may result in communications and/or broadcast towers or structures of any type is prohibited anywhere on the Property, except as otherwise allowed for in this Conservation Easement.
- K. Wind Power/Wind Energy. The placement, erection, or construction of any above-ground wind turbines or structures or granting of any easement on or across to a third-party that may result in above-ground structures to capture kinetic energy from the wind is prohibited anywhere on the Property, except as otherwise allowed for in this Conservation Easement.
- L. Mineral Activities. Exploration or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials found in, on, or under the Property is prohibited by open-pit or surface mining methods. No sub-surface exploration or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials (including the lease, sale, or other disposition of the rights to such materials) is allowed which may impair or destroy the Property's Conservation Values. No mineral activities inconsistent with §170(h)(5)(B) of the Internal Revenue Code are permitted.
- M. Timber Harvesting. Landowner does not have the right to harvest timber on the Property, except as specifically allowed in Section 3.
- N. Billboards. Landowner shall not construct, maintain, or erect any commercial signs or billboards on the Property. Small signs may be displayed, however, to advertise the Property

for sale, to identify the Property owner, to post the Property as private, or to post the Property as protected by this Conservation Easement.

- O. Cultivation or Farming. Sod farming/busting is prohibited. Sod farming is a prohibited activity in its entirety. Sod busting may only occur on the Property identified as cultivated or farmed lands in the Baseline Inventory referred to in this Conservation Easement.
- P. Hazardous Waste and Toxic Materials. Landowner shall not store, dump, or otherwise dispose of any toxic and/or hazardous material on the Property. Neither this specific prohibition nor any other right granted in this Conservation Easement makes the Holder an owner of the Property. Nor does it permit the Holder to control any use of the Property by Holder which may result in the storage, dumping or disposal of hazardous or toxic materials; provided, however, the Holder may bring an action to protect the Conservation Values of the Property. This prohibition does not impose liability on the Holder, nor shall the Holder be construed as having liability as a “responsible party” under CERCLA or other similar state or federal statutes.

#### SECTION 6 - BREACH, RESTORATION, AND REMEDIES

- A. Breach and Restoration. Where the Holder becomes aware of a violation or potential violation of any restriction contained in this Conservation Easement, or becomes aware of any damage or potential damage to the Conservation Values associated with the Property, whether precipitated by Landowner or by a third party, the Holder may notify Landowner in writing of such violation, potential violation, damage or potential damage. Upon Landowner’s receipt of such notice, Landowner agrees to immediately take action to prevent or stop the activity which potentially or actually violates the terms or intent of this Conservation Easement.

Landowner shall have thirty (30) days after receipt of such notice to undertake actions, including restoration of the Property, that are reasonably calculated to swiftly correct the conditions caused by such violation. If Landowner fails to take such corrective action, the Holder may undertake appropriate action, including legal action, to effect such corrections. The cost of such corrections, including the Holder's expenses, court costs, and legal fees, shall be paid by Landowner. In the event Landowner is found not in violation of this Conservation Easement, then Landowner’s legal fees shall be paid by the Holder.

- B. Injunctive and Other Relief. In the event Landowner undertakes or causes to be undertaken any activity on the Property that requires the Holder’s prior approval and such approval is not obtained consistent with Section 4 of this Conservation Easement, or where Landowner undertakes or causes to be undertaken any activity in violation or potential violation of the terms of this Conservation Easement; the Holder shall have the right to obtain injunctive relief or writs from courts of competent jurisdiction to stop any unauthorized activities and/or force the restoration of that portion of the Property affected by such activity to a similar or equivalent condition that existed prior to the unauthorized activity. Such restoration may include, but is not limited to, restoring soils, replanting suitable native vegetation, and/or taking such other action as the Holder deems necessary to achieve restoration. In such case,

the costs of restoration and litigation, including reasonable attorney's fees, shall be borne by Landowner or those of its successors or assigns against whom a judgment is entered.

- C. Actual or Threatened Non-Compliance. Landowner acknowledges that actual or threatened instances of non-compliance under this Conservation Easement constitute immediate and irreparable harm. The Holder is entitled to invoke the equitable jurisdiction of any court to enforce this Conservation Easement.
- D. Cumulative Remedies. The Holder's remedies set forth in this Conservation Easement are cumulative. Any, or all, of the remedies may be invoked by the Holder if there is an actual or threatened violation of this Conservation Easement.
- E. Delay in Enforcement. A delay in enforcement shall not be construed as a waiver of the Holder's right to enforce the terms of this Conservation Easement.
- F. Acts of Third Parties. Nothing contained in this Conservation Easement will be construed to entitle Holder to bring any action against Landowner for any injury to or change in the Property resulting from (a) acts of third parties legally authorized to act by recorded instrument or other legally established rights to which this Easement is subject or (b) the wrongful acts of third parties other than Landowner's agents, employees, invitees, or contractors (provided Landowner has taken reasonable actions to prevent such third parties from trespassing and from causing harm to the Property and has not authorized, consented to, or participated in the acts of such third parties). Landowner must notify Holder of any act or occurrence that would adversely affect or interfere with the Conservation Values whether caused by Landowner's acts or omissions or by a third party or parties. In the event of a violation of this Conservation Easement caused by the wrongful acts of a third party, Landowner and Holder must cooperate fully in enforcement of this Conservation Easement, including but not limited to: bringing an action against a third party to protect the Conservation Values of the Property, gathering facts and information relevant to the violation; Landowner assigning its right of action to Holder; joining in any claim or legal action; and appointing Holder as its attorney-in-fact for purposes of enforcement; all at the election of Holder after consultation with Landowner. In the event that such third-party acts interfere with the Conservation Values, Landowner and Holder will work together to identify restoration or rehabilitation activities and develop a written restoration plan. This Section will not be construed to relieve Landowner of the obligation to clean up garbage or materials dumped on the Property by third parties, to take all reasonable actions to prevent violations of the Conservation Easement by third parties, or to otherwise maintain the Property in a condition consistent with the Conservation Values. Nothing in clause (b) of this Section will prohibit Holder from bringing an action against Landowner resulting from Landowner's failure to take reasonable actions to prevent violations of the Conservation Easement by third parties or from Landowner's authorization, consent, or participation in the wrongful acts of third parties resulting in violations of the Conservation Easement.

#### SECTION 7 - COSTS AND TAXES

Landowner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property. Landowner shall pay any and all lawful taxes, assessments, fees, and charges levied by a competent authority on the Property.

#### SECTION 8 - ASSIGNMENT OF CONSERVATION EASEMENT

The Holder may not transfer or assign its interest in the Property created by this Conservation Easement except to another "qualified organization" (within the meaning of Section 170(h) (3) of the Internal Revenue Code) which is organized or operated primarily or substantially for one or more of the conservation purposes specified in Section 170(h) (4) (a) of said Code. Any such qualified organization shall agree to enforce the Conservation Values protected by this Conservation Easement.

The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable. Holder has the right to transfer or assign this Conservation Easement to an entity that: (a) satisfies the requirements of §170(h)(3) of the U.S. Internal Revenue Code (or successor provisions of that code) and is qualified to hold the Conservation Easement under Applicable Laws; and (b) as a condition of transfer, agrees to uphold the Conservation Values, as required in Treasury Regulations §1.170A-14, as amended. If Holder ever ceases to exist or no longer qualifies under §170(h) or Applicable Laws, a court with jurisdiction will transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility of holding and enforcing this Easement. In the event Holder transfers or assigns this Conservation Easement, in whole or in part, Holder is granted the right to reserve a third-party right of enforcement if Holder so elects at the time of the transfer.

#### SECTION 9 - BASELINE INVENTORY

The parties acknowledge that baseline conditions of the Property are set forth in an Inventory of Baseline Data ("Baseline Inventory" or "Baseline Report") and has been completed by competent professionals of the Utah Department of Agriculture and Food, in coordination with Holder, familiar with the Property and that the Baseline Inventory has been approved in writing by Landowner. A copy of the Baseline Inventory is on file with the Landowner and Holder at their respective address for notices set forth below. The parties agree and acknowledge that this collection of baseline inventory contains an accurate representation of the Property's condition, natural resources, and of the current and historical uses of the Property as of the date of the execution of this Conservation Easement in accordance with Treasury Regulation 1.170A-14(g)(5)(I).

Notwithstanding the foregoing, should a future controversy arise over the biological and/or physical condition of the Property, the parties may use all relevant documents, surveys, reports and other information to assist in resolving the controversy.

If range or habitat conditions significantly improve on the Property, the parties may agree to prepare an updated inventory of baseline data to document the improved conditions. The updated inventory of baseline data must be approved in writing by the parties. Upon approval, the updated inventory of baseline data will be used as the baseline for future monitoring.



## SECTION 10 - EXTINGUISHMENT OF DEVELOPMENT RIGHTS

Landowner hereby acknowledges the extinguishment of all development rights associated with the Property, except those specifically reserved herein. Landowner agrees that all rights or interests in such development rights are terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be described, or to any other adjacent property, nor used for the purpose of calculating permissible lot yield or density of the Property or any other property with regard to any land use or zoning which affects, or may affect, the Property. Landowner may sell their remaining interests subject to the Conservation Easement.

## SECTION 11 - SUBSEQUENT SALE, EXCHANGE, OR INVOLUNTARY CONVERSION

Landowner and the Holder agree that the conveyance of this Conservation Easement creates a real property right immediately vested in the Holder. The Holder's property right in this Conservation Easement shall be based on the condition and improvements on the Property at the time the Conservation Easement is established, and this condition shall be documented through the Conservation Easement, CNMP and Baseline Inventory. For purposes of this Section, the property right shall be deemed to have a fair market value at least equal to the proportionate value this Conservation Easement bears to the entire value of the Property as a whole at the time of its creation. That proportionate value of the Holder's property rights shall remain constant. Should a change in conditions give rise to the extinguishment of this Conservation Easement, as provided in Treasury Regulation Section 1.170A-14(g)(6)(I), or extinguishment of a portion of the Holder's rights under this Conservation Easement, the Holder on a subsequent sale, exchange, conveyance, or involuntary conversion of the Property or a portion of the Property shall be entitled to a portion of the proceeds at least equal to such proportionate value of this Conservation Easement as established at the time of its creation. All interpretations of the Holder's property rights shall follow Treasury Regulation Section 1.170.

Whenever all or part of the Property is taken in exercise of eminent domain, or under claim of rights of eminent domain, to abrogate the restrictions imposed by this Conservation Easement, Landowner and the Holder may join in appropriate actions to recover the full value of the Property taken and all incidental or direct damages resulting from such taking. All reasonable expenses incurred by Landowner or the Holder in any such action shall first be reimbursed out of the recovered proceeds; Landowner shall reimburse Holder for the remainder of the reasonable expenses, including attorney's fees.

Landowner agrees that reference to this Conservation Easement will be made in any subsequent deed, or other legal instrument, by means of which any interest in the Property (including any leasehold interest) is conveyed, and that a copy of this Conservation Easement will be attached thereto. Landowner will notify the Holder in writing of any conveyance of interest by sending written notice to the Holder as specified *supra*. Landowner agrees to provide notice of this Conservation Easement to all successors in interest, and to any potential purchasers or subsequent owners. In the event Landowner elects to sell the Property, Landowner agrees to provide notice of this Conservation Easement in any sale or solicitation materials or information. Any failure to comply with the terms of this paragraph shall in no manner render this Conservation Easement or

any provisions of this Conservation Easement unenforceable.

#### SECTION 12 - ENVIRONMENTAL LIABILITY

Landowner is solely responsible, and Holder has no responsibility, for the operation of the Property or the monitoring of hazardous or other conditions on it. Landowner covenants, represents, and warrants that, after investigation and to the best of Landowner's knowledge:

(a) Landowner and the Property are in compliance with, and will remain in compliance with, all applicable Environmental Laws (defined below). Landowner has no actual knowledge of any use or release of Hazardous Materials (defined below) on the Property that is in violation of any Environmental Law. Landowner has received no notices from any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under any Environmental Law relating to operations or conditions on the Property.

(b) There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with Applicable Laws, or if there have been or are any such tanks located on the Property, their location has been identified to Holder in writing, they have been properly registered with all appropriate authorities, they are in full compliance with all Applicable Laws, and they have not resulted in the release of any substances regulated by Environmental Laws into the environment.

Without limitation of any other indemnity or release set forth in this Conservation Easement, Landowner releases and will indemnify, defend, and hold Holder and its directors, officers, and employees harmless from any and all liability, litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, related to Landowner's representations and warranties in this Section or related to the use, deposit, or release of any Hazardous Materials or substances regulated by Environmental Laws on the Property. Nothing in this Conservation Easement will be construed as giving rise, in the absence of a judicial decree, to any right or ability by Holder to exercise physical or managerial control over the day-to-day operations of the Property or over any of Landowner's activities on the Property or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 USC §9601 et seq.) (CERCLA) or any successor, related, or similar law or any corresponding state statute.

Environmental Laws means any and all federal, state, local, or administrative agency statutes, regulations, rules, codes, ordinances, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) regarding air, water, solid waste, Hazardous Materials, petroleum products, worker and community right-to-know, hazard communication, radioactive material, resource protection, wetlands and watercourses, or health protection and similar environmental health, safety, building and land use laws and regulations as are now or at any time in the future might be in effect.

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, and any other element, compound, mixture, solution, or substance that might pose a present or potential hazard to human health or the environment. The term Hazardous Materials also includes related materials defined in CERCLA, in the Resource Conservation and Recovery Act (49 USC §6901 et seq.), in the Hazardous Materials Transportation Act (49 USC §5101 et seq.), in the regulations adopted and publications promulgated pursuant to them, or in any other Applicable Laws in effect on or after the Effective Date.

### SECTION 13 - MISCELLANEOUS PROVISIONS

- A. Partial Invalidity. If any provision of this Conservation Easement, or the application of this Conservation Easement, or the application of this Conservation Easement to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.
- B. Enforcement. Landowner intends that enforcement of the terms and provisions of this Conservation Easement shall be at the discretion of the Holder, and that the Holder's failure to exercise its rights under this Conservation Easement, in the event of any breach by Landowner, shall not be considered a waiver of the Holder's rights under this Conservation Easement in the event of any subsequent breach.
- C. Indemnification. Landowner shall indemnify, hold harmless, and release Holder and the state of Utah, and all of its officers, agents, employees, and volunteers from and against any and all loss, damages, injury liability, suits, and proceedings relating to this Conservation Easement which are caused in whole or in part by the acts, omissions, or neglect of the Holder and the state of Utah, or any of its officers, agents, employees, and volunteers, in accordance with the Utah Governmental Immunity Act.
- D. "Landowner" and "Holder". The term "Landowner", as used in this Conservation Easement, and any pronouns used in place thereof shall mean and include the above-named Landowner, and its heirs, personal representatives, executors, successors and assigns. The term "Holder", as used in this Conservation Easement, and any pronouns used in place thereof shall mean the State of Utah, by and through the Department of Agriculture and Food, and its successors and assigns.
- E. Titles. Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect.
- F. Amendment/Conveyances. Nothing in this Conservation Easement shall be construed to preclude Landowner from making a subsequent conveyance of rights in the Property to further protect its Conservation Values, provided, however, that any such subsequent conveyance shall not impair any Conservation Values sought to be advanced by this Conservation Easement. This Conservation Easement may be amended with permission by Holder and Landowner. If an amendment is sought by Landowner, Holder shall require that the amendment generally conform to NRCS requirements and standards, and Landowner

shall be solely responsible for all costs and fees associated with amending the terms of this Conservation Easement, including, but not limited to, surveys, Holder and Landowner's attorney fees, court costs, and recording fees. Despite any language to the contrary in this Conservation Easement, no amendment of this Conservation Easement shall be allowed within the first five years of the effective date of this Conservation Easement. Additionally, despite any language to the contrary in this Conservation Easement, in no event shall any amendment to this Conservation Easement be made without compliance with federal, state and local laws regarding the creation and amendment of conservation easements. Finally, despite any language to the contrary in this Conservation Easement, no amendment to this Conservation Easement shall be allowed that would create an impermissible private benefit or private inurement in violation of federal tax law; adversely affect the validity or qualification of this Conservation Easement as a charitable gift (if applicable) or the status of Holder under § 170(h) of the Internal Revenue Code or the laws of the State where the Property is located; or that would be inconsistent with the Conservation Values, diminish the Conservation Values, or affect the Conservation Easement's perpetual duration. No amendment shall be effective unless documented in a notarized writing executed by Holder and Landowner and recorded in the official records of the county in which the Property is located.

- G. Liberal Construction. This Conservation Easement shall be liberally construed in favor of maintaining the Conservation Values of the Property, and in accordance with Utah Code Ann. §§ 57-18-1 to 57-18-7. The parties acknowledge that each has reviewed and revised this Conservation Easement with the assistance of counsel, and that no rule of construction resolving ambiguities against the drafting party shall be employed in interpreting this Conservation Easement.
- H. Successors. This Conservation Easement is binding upon, and will inure to the benefit of, Landowner's and the Holder's successors in interest and assigns. All subsequent owners of the Property are bound to all provisions of this Conservation Easement to the same extent as Landowner.
- I. Governing Law. The provisions of this Grant Agreement shall be construed and governed by the laws of the state of Utah. The parties agree to exhaust any administrative remedies provided by law and to submit to the jurisdiction of the Utah State Court for any dispute relating to this Grant Agreement or the breach thereof. Exclusive court venue for any legal action relating to this agreement shall be the Third District Court for Salt Lake County, Utah.
- J. Entire Agreement. This Conservation Easement, along with its attachments and referenced documents, sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.
- K. Compliance with Law. All uses and practices permitted by this Conservation Easement, including the Primary Uses, shall comply with all applicable state and federal laws.
- L. Effective Date. The effective date of this Conservation Easement will be the date signed by all parties.

- M. Notice Requirements. Landowner hereby acknowledges that the Holder, at least three days prior to the execution of this Conservation Easement, discussed with it the types of Conservation Easements available, the legal effect of each Conservation Easement, and the advisability of consulting legal counsel concerning the possible legal and tax implications associated with granting this Conservation Easement. Landowner and Holder have discussed the Conservation Easement options available for the Property, as best known by Holder at the time of closing, and Landowner has declined to have additional information on other available state-run easement provided at that time.
- N. Merger. Should the Holder subsequently acquire ownership of the remaining fee interest in the Property, the Parties intend that this Conservation Easement shall not merge with such ownership. It being the intent of the Parties that the Conservation Easement never be extinguished, but remain in full force enjoining the Holder or its successor in interest to perpetually comply with its terms and conditions regardless who holds title to the underlying fee interest.
- O. Change of Conditions. The fact that any use of the Property expressly prohibited by this Conservation Easement or otherwise determined inconsistent with the purpose of this Conservation Easement may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Conservation Easement, has been considered by Landowner in granting this Conservation Easement. It is Landowner's belief that any such changes will increase the public's benefit and interest in the continuation of this Conservation Easement, and it is the intent of both Landowner and the Holder that any such changes not be considered circumstances sufficient to terminate this Conservation Easement, in whole or in part. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Conservation Easement or be considered grounds for its termination.
- P. Superiority of Conservation Easement. Any mortgage, trust deed, lien, judgment, or other financial interest executed or entered against the Property hereafter shall be subordinate to this Conservation Easement and in no way enable the holder of such interest or their successor(s) in interest to breach the terms of this Conservation Easement or otherwise compromise the Conservation Values protected thereby.
- Q. Wildlife Depredation. Landowner and Grazing Lessees agree not to exercise or seek any available right to monetary compensation from the State of Utah or from Holder for damage caused by wildlife to the Property, including but not limited to damage to irrigation equipment, ditches, water control structures, wells, farm equipment, fences, gates, buildings, crops, orchards, rangeland, trees, shrubs, landscaping, livestock feed, or stack yards. Nothing herein shall be construed as prohibiting Landowner from seeking available remedies from the State for predation damage caused to livestock, as allowed under State law.
- R. Stewardship Monitoring Fund. Landowner, either personally or through Holder, agrees to provide the state of Utah funds to aid and facilitate the necessary monitoring obligations outlined in the Deed of Conservation Easement. A separate agreement between the parties

or a third-party and the state of Utah may be executed to specify how these funds are held and distributed.

- S. Re-Recording. To ensure the perpetual enforceability of the Conservation Easement, Holder is authorized to re-record this instrument or any other appropriate notice or instrument; and solely for such purpose, Landowner appoints Holder as Landowner's attorney-in-fact to execute, acknowledge, and deliver any necessary instrument on Landowner's behalf. Without limiting the foregoing, Landowner agrees to execute any such instruments upon request.
- T. Subsequent Liens on Property; Bankruptcy. No provision of this Conservation Easement should be construed as impairing the ability of Landowner to use this Property as collateral for subsequent borrowing. Any mortgage or lien arising from a borrowing subsequent to the granting of this Conservation Easement is subordinate to this Conservation Easement; and such subsequent mortgage or lien may not violate the terms and conditions of this Conservation Easement and may not be interpreted to allow anything that is prohibited in this Conservation Easement, including subdivision. If Landowner files or becomes the subject of a bankruptcy proceeding, Landowner must notify Holder of such bankruptcy.
- U. Subsequent Activities; No Representations or Warranties. Permission to carry out any proposed use or activity will not constitute consent to any subsequent use or activity of the same or any different country, unless explicitly included in said permission. Likewise, permission by Holder to carry out, or failure by Holder to object to, or any language in this Conservation Easement that allows any proposed use or activity or designates a specific area of the Property where the use or activity is to be conducted, will not be deemed to constitute any representation or warranty by Holder regarding the use or activity, including, without limitation, the fitness of the Property for the use or activity or the legality of the use or activity.
- V. Liability Insurance  
Landowner shall be solely responsible for obtaining and maintaining a valid insurance policy covering the Property. Nothing in this Conservation Easement shall be construed to require Holder to obtain liability, property, title or other insurance related to the Property.

**TO HAVE AND TO HOLD** the above-described Deed of Conservation Easement unto the said Holder, its successors and assigns, forever.

IN WITNESS WHEREOF, Landowner has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**LANDOWNER:**

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

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

STATE OF UTAH                    )  
  : SS.  
County of \_\_\_\_\_            )

On this \_\_\_\_ day of \_\_\_\_\_, 2023 xxxxxxx, personally appeared before me, \_\_\_\_\_, a notary public, proved to me through satisfactory evidence of identification, to be the person whose name is signed on the preceding or attached document in my presence.

WITNESS my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public for the State of Utah

DRAFT

**ACCEPTANCE OF CONSERVATION EASEMENT BY HOLDER;** the foregoing Conservation Easement has been accepted by THE STATE OF UTAH, BY AND THROUGH THE DEPARTMENT OF AGRICULTURE AND FOOD.

**HOLDER:**  
THE STATE OF UTAH, BY AND THROUGH THE DEPARTMENT OF AGRICULTURE AND FOOD

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

Its: \_\_\_\_\_

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

STATE OF UTAH                    )  
  : SS.  
County of Salt Lake            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, \_\_\_\_\_, the \_\_\_\_\_ of The State of Utah, by and through the Department of Agriculture and Food, a government entity, personally appeared before me, \_\_\_\_\_, a notary public, proved to me through satisfactory evidence of identification, to be the person whose name is signed on the preceding or attached document in my presence.

WITNESS my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public for the State of Utah



EXHIBIT A  
Property Description

To be inserted

DRAFT

EXHIBIT B  
Property Map

Disclaimer: This map is for informational purposes only and is not a survey or a substitute for a survey. The State of Utah, by and through the Department of Agriculture and Food, makes no representations, guarantees, or warranties regarding the map's accuracy.

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