

EASEMENT and USE AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into this ^{13th} day of August, 2019 by **CLAY CARTER and KELLY S. CARTER** ("Grantor") whose current address is 150 West Woods Creek Road, Porterville, Utah and **VAN G. CHRISTIANSEN and DAWN CHRISTIANSEN** ("Grantee") whose current address is 3937 North Evergreen Drive, Pleasant View, Utah. Grantor and Grantee are collectively referred to herein as the "Parties."

RECITALS

WHEREAS, Grantor is the owner of certain real property in Porterville, Morgan County, Utah as more particularly described in **Exhibit A** ("Carter Property") attached to this Agreement; and

WHEREAS, Grantee is the owner of certain real property situated in Porterville, Morgan County, Utah as more particularly described in **Exhibit B** ("Christiansen Property") attached to this Agreement; and

WHEREAS, Grantee and their respective predecessors in interest have historically utilized a portion of the Carter Property for access to the Christiansen Property under a prior recorded easement; and

WHEREAS, it is essential to the use, enjoyment, and access of the Grantee and their descendants, heirs, agents, and successors that they keep and maintain a perpetual easement through, over, and across the Carter Property in order to access the Christiansen Property; and

WHEREAS, Grantor and Grantee each desire that the Grantees will be permitted continued and unencumbered access the Christiansen Property by way of the Carter Property through this instrument of writing signed by the Parties; and

THEREFORE, in consideration of the foregoing for good and valuable consideration, the receipt of which is dully acknowledged, Grantor and Grantee agree as follows:

1. **Incorporation.** The above recitals are incorporated herein and made a part of this Agreement.
2. **Grant of Easement.** Grantor hereby grants and conveys to Grantee a non-exclusive right of unencumbered ingress, egress, and access of vehicular and pedestrian traffic through, over, and across a twelve foot wide portion of the Carter Property for the purposes of accessing the Christiansen Property.
3. **Improvements and Repairs.** Grantee shall be permitted to make improvements to the easement property so long as those improvements do not materially impair or diminish Grantor's use of the easement property. Improvements and repair materials shall be limited to dirt and gravel products only. Grantee shall not have the right to incorporate any paving, cementing, or other permanent road overlay on the easement property. Grantees shall be solely responsible for any damage to the easement property occurring as a result of Grantees or their guests, agents, or other invitees' use of the easement property and shall restore the easement property to substantially the same condition in which it was found prior to the damage occurring.
4. **Duration of Easement.** The easement contemplated under this Agreement will be perpetual and may be terminated only by a written instrument, signed by all parties owning a fee interest in the Christiansen or Carter Properties and recorded in the records of the Morgan County Recorder. This Agreement shall remain in effect upon all current and future parties owning a fee interest in the Carter Property and shall transmit to Grantee's heirs and/or legal successors without prejudice.
5. **Indemnification.** Grantee indemnifies, holds harmless and agrees to defend Grantor for, from and against all claims, damages, expenses, liabilities and judgments on account of injury to persons, loss of life, or damage to property occurring on the Grantor Parcels, caused by the active or passive negligence of Grantee or Permittees, or the breach by Grantee of any of its obligations; provided, however, this indemnification does not apply to the extent any loss of life, injury to any person, or damage to any property is caused by the active or passive negligence of Grantor, or its respective agents, servants or employees.
6. **Severability.** If any condition, covenant or other provision contained is held to be invalid or void by any court of competent jurisdiction, the same will be deemed severable from the remainder of this Agreement and will in no way affect any other condition, covenant or other provision contained. If such condition, covenant or other provision will be deemed invalid due to its scope or breadth, such condition, covenant or other provision will be deemed invalid for the scope and breadth permitted by law.
7. **Amendment.** This Agreement can only be amended or modified by a written instrument, signed by all parties owning a fee interest in the Christiansen or Carter properties. Any such amendment shall be recorded at the office of the Morgan County Recorder. However, nothing herein shall be deemed to prevent the Parties from making changes to

their respective properties, so long as such changes do not-materially affect the easements and rights granted herein.

8. **Not a Public Dedication.** Nothing in this Agreement will be deemed to be a gift or dedication of any portion of the Grantor Parcels to or for the general public or for any public purposes, it being the intention of the Parties this Agreement be strictly limited to and for the purposes expressed.
9. **No Partnership.** The Parties do not by this Agreement, or for any purpose, become partners or joint venturers of each other in the conduct of their respective businesses or otherwise.
10. **Further Action.** The Parties will execute and deliver all documents, provide all information, take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.
11. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original instrument for all purposes, but all of which will comprise the same instrument.
12. **Governing Law.** This Agreement will be construed and enforced under the laws of the State of Utah.
13. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subjects contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by and merged in this Agreement. No supplement, modification or amendment of this Agreement will be binding unless in writing and executed by each Party and recorded in the records of the Morgan County Recorder.

[signature page to follow]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly executed as of the date shown above.

GRANTOR

By: [Signature]
Print Name: Clay Carter
Date: 8-15-2019

GRANTEE

By: [Signature]
Print Name: Van G. Christiansen
Date: 8-13-19

GRANTOR

By: [Signature]
Print Name: Kelly S. Carter
Date: Aug 15, 2019

GRANTEE

By: [Signature]
Print Name: Dawn V. Christiansen
Date: 8-13-19

STATE OF UTAH

COUNTY OF Morgan ss.

On this 15th day of August, 2019 personally appeared before me CLAY CARTER and KELLY S. CARTER, Grantor and signer of the within and foregoing instrument, who duly acknowledged to me that they executed the same.

WITNESS my hand and official stamp the date in this certificate first above written:

[Signature]
Notary Public

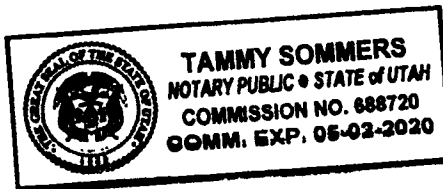


EXHIBIT A - CARTER PROPERTY
Morgan County parcel number 00-0059-9215

THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 2 EAST OF THE SALT LAKE BASE AND MERIDIAN.

LESS AND EXCEPTING THE FOLLOWING:

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 25, AND THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 3 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, MORGAN COUNTY, UTAH BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 36, THE TRUE POINT OF BEGINNING, AND RUNNING THENCE SOUTH OODEG OOMIN OOSEC EAST 10.09 FEET; THENCE SOUTH 57DEG 46MIN 47SEC WEST 57.73 FEET; THENCE 99.77 FEET ALONG THE NORTHWESTERLY LINE OF WOODS CREEK ROAD, A CURVE TO THE RIGHT, HAVING A RADIUS OF 602.90 FEET, AN INCLUDING ANGLE OF 09DEG 28MIN 54SEC, AND A LONG CHORD BEARING SOUTH 62DEG 31MIN 14SEC WEST 99.66 FEET; THENCE SOUTH 67DEG 15MIN 41SEC WEST 39.06 FEET; THENCE 31.81 FEET ALONG THE NORTHWESTERLY LINE OF WOODS CREEK ROAD, A CURVE TO THE RIGHT, HAVING A RADIUS OF 25 FEET, AN INCLUDED ANGLE OF 72DEG 53MIN 43SEC, AND A LONG CHORD BEARING SOUTH 76DEG 17MIN 28SEC WEST 29.70 FEET; THENCE 53.51 FEET ALONG THE NORTHWESTERLY LINE OF WOODS CREEK ROAD, A CURVE TO THE LEFT, HAVING A RADIUS OF 60 FEET, AN INCLUDING ANGLE OF 51DEG 06MIN 05SEC, AND A LONG CHORD BEARING NORTH 65DEG 23MIN 28SEC WEST 51.76 FEET; THENCE NORTH OODEG 56MIN 41SEC WEST 185.99 FEET; THENCE SOUTH 89DEG 56MIN 55SEC EAST 252.36 FEET; THENCE SOUTH OODEG 03MIN 05SEC WEST 112.38 FEET-MORE OR LESS TO THE POINT OF BEGINNING.

TOGETHER WITH ALL WATER AND WATER RIGHTS INCLUDING CLAIM

#35-8357 DESCRIBED AS 36 HOURS PER WEEK OF CREEK WATER OUT OF WOODS CREEK, AND 8 TWELVE HOUR DAYS OF LAKE WATER OUT OF WOODS CREEK DITCH AND RESERVOIR. ALSO, WATER RIGHTS AS DESCRIBED IN WAYER USER'S CLAIM #35-5681 AND #35-8391.

EXHIBIT B - CHRISTIANSEN PROPERTY
Morgan County parcel numbers 00-0000-0958 & 00-0000-0941

PARCEL 1:

ALL OF SECTION 2, TOWNSHIP 2 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN

PARCEL 2:

**THE WEST PART OF SECTION 1, TOWNSHIP 2 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 1, RUNNING THENCE EAST 14.95 CHAINS; THENCE SOUTH 94.90 CHAINS; THENCE WEST 14.95 CHAINS; THENCE NORTH 94.90 CHAINS TO THE POINT OF BEGINNING.**