

RECORD AND RETURN TO:
The Nature Conservancy
Attn: Legal Department
559 East South Temple
Salt Lake City, UT 84102

111052-WHP
TAX ID: 21-027-0014

ENT 202752:2020 PG 1 of 30
Jeffery Smith
Utah County Recorder
2020 Dec 18 02:56 PM FEE 40.00 BY SS
RECORDED FOR Cottonwood Title Insurance Agency, Inc
ELECTRONICALLY RECORDED

**DEED OF CONSERVATION EASEMENT
(Utah Lake (Robins) Utah)**

This Conservation Easement (“**Conservation Easement**”) is made on December 17, 2020 (the “**Conservation Easement Date**”) by M. Moreno Robins Properties, LC, a Utah limited liability company, with an address of 3373 North 175 East, Provo, Utah 84604 (the “**Landowner**”), and The Nature Conservancy, a District of Columbia nonprofit corporation, having a local address of 559 East South Temple, Salt Lake City, Utah 84102 (the “**Holder**”).

Exhibits to this Conservation Easement include the following:

- Exhibit A** – Property Description
- Exhibit A-1** – Map of Property
- Exhibit B** – Water Rights

RECITALS

- A. PROPERTY.** Landowner is the owner in fee simple of the property legally described in **Exhibit A**, which consists of approximately 31.00 acres located in Utah County, Utah (the “**Property**”). For the purposes of this Conservation Easement the Property includes any and all water and water rights beneficially used or conditionally decreed for use on the land described in **Exhibit A** that are owned by the 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 (the “**Water Rights**”). The Water Rights include surface water rights and groundwater rights, of any legal character whatsoever, including, but not limited to, those water rights or interests specifically described on **Exhibit B** attached hereto.
- B. MISSION.** The mission of The Nature Conservancy is to conserve the lands and waters on which all life depends.
- C. QUALIFIED ORGANIZATION.** Holder is a “qualified organization” as that term is defined in 26 U.S.C. § 170(h)(3) and applicable regulations.
- D. AUTHORIZING STATUTE.** The State of Utah has authorized the creation of conservation easements pursuant to Utah Code Title 57, Chapter 18 (the “**Utah Conservation Easement Statute**”), and the Landowner and the Holder wish to avail

themselves of the provisions of that law without intending that the existence of this Conservation Easement be dependent on the continuing existence of such law.

- E. USE OF THE PROPERTY.** The Property may continue to be used for ranching and agricultural purposes. The Conservation Values (defined below) of the Property have not been and are not likely to be adversely affected to any substantial extent by continuing to allow the uses of the Property that are authorized under this Conservation Easement. Also the Conservation Values of the Property have not been and are not likely to be adversely affected to any substantial extent by limited development of the Property through the use and maintenance and/or construction of those Buildings (defined below) and Structures (defined below) that presently exist on the Property, as permitted herein or by the limited additional development that is authorized under this Conservation Easement.
- F. TNC WHOLE SYSTEM.** The Property consists of ranchland and wetlands bordering both Utah Lake (near Utah Lake State Park) and the Provo River Delta Restoration Project managed by the Utah Reclamation Mitigation and Conservation Commission, acting through the U.S. Bureau of Reclamation. This Conservation Easement extends a contiguous swath of conserved land along the Utah Lake lakeshore that currently encompasses the Powell Slough Waterfowl Management Area, the Taylor Ranch Conservation Easement (an easement held by The Nature Conservancy), and the Provo River Delta Restoration Project. The Conservation Easement extends these protected lands farther to the south. The Property also borders the Skipper Bay Trail (aka Utah Lake Shoreline Trail), which is one of Utah's premier birding sites.
- G. TNC CONSERVATION PRACTICES.** The Holder recognizes that the protection of local agricultural land, open space, viewsheds, wetlands, and species habitat is essential to safeguarding biodiversity and is essential to people's social and economic well-being. This Conservation Easement has been designed to preserve local agricultural land, maintain open space and views from existing public trails, and maintain wetlands and other habitat for nesting and migrating birds.
- H. CURRENT USE OF THE PROPERTY.** The Property is currently used for and will continue to be used for the grazing of cattle and horse pasture. The Conservation Values (defined below) of the Property have not been and are not likely to be adversely affected to any substantial extent by continuing to allow the uses of the Property that presently exist on the Property or which are authorized under this Conservation Easement. Also the Conservation Values of the Property have not been and are not likely to be adversely affected to any substantial extent by limited development of the Property through the use and maintenance and/or construction of those Buildings and Structures which presently exist on the Property, as permitted herein.

NOW, THEREFORE, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein, and the sum of Ten Dollars (\$10.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landowner hereby grants, bargains, sells, warrants and conveys unto

Holder a Conservation Easement in perpetuity on, over, across, under and above the Property of the nature and character as follows:

1. **PURPOSE.** The purpose of this Conservation Easement is to preserve and protect in perpetuity the Conservation Values (defined below) (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. Specifically, the Property is habitat for the following species of migratory and nesting birds: at-risk species such as Olive-sided Flycatchers, Virginia’s Warblers, Rufous Hummingbirds, and Pinyon Jays; and waterfowl, including green-winged teal, gadwall, northern shoveler and northern pintail.

The attributes of the Property described in this Paragraph and in Recital F are collectively referred to in this Conservation Easement as the “Conservation Values.”

The Conservation Values are of great importance to the Landowner, the Holder, and the people of Utah, and protection of the Conservation Values will yield a significant public benefit.

2. **EASEMENT DOCUMENTATION REPORT.** The parties acknowledge that an **Easement Documentation Report** has been prepared and approved in writing by Holder and Landowner. The report contains: (a) an accurate representation of the natural resources and physical condition of the Property at the time of this conveyance, (b) a description of the current and historical uses of the Property, and (c) a statement signed by the Landowner and a representative of Holder as required by Treasury Regulations §1.170A-14(g)(5)(i). The report also documents the nature and extent of historic use of the Water Rights on the Property. The report may be used to determine compliance with, and to enforce, the terms of this Conservation Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination or for enforcement of this Conservation Easement. In case of any conflict or inconsistency between the terms of the Conservation Easement and the report, the terms of this Conservation Easement shall prevail. A copy of the report is on file with Landowner and Holder at their respective addresses for notices set forth below. The Holder shall provide a copy of the report to the Landowner’s successors in title upon written request.

3. **PROPERTY USES.** The following uses and practices by the Landowner are not an exhaustive recital of uses and practices on the Property. Certain of these uses and practices are identified as being subject to specified conditions or to the requirement of and procedures for prior approval by the Holder and procedures for such prior approval are provided below. Any activities inconsistent with the Purpose of the Conservation Easement are prohibited.

3.1 **Agricultural and Ranch Use.** The provisions of this Conservation Easement do not limit agricultural and ranch uses of the Property consistent with the Conservation Values and the Purpose of the Conservation Easement, so long as they are consistent with the terms, conditions and restrictions set forth elsewhere in this Conservation Easement.

3.1.1 [Provision intentionally omitted]

3.1.2 *Preserving Agricultural Uses.* The provisions of this Conservation Easement and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Property, so long as the agricultural operations are consistent with the long-term viability of the Property and the Purpose of the Conservation Easement. No uses will be allowed that violate Federal laws, including Federal drug laws, or that decrease the Conservation Easement's protection for the Purpose of the Conservation Easement. Allowed uses of the Property include the specific uses allowed in **Paragraph 3** and the following activities, subject to the qualifications stated below:

3.1.3 *Agricultural Production.* The production, processing, and marketing of livestock and agricultural products compatible with the Purpose of the Conservation Easement are allowed provided these activities are conducted in a manner consistent with the terms of the Conservation Easement.

3.2 Construction of Buildings and Structures. Construction or placement of any Buildings or Structures is prohibited except as follows:

3.2.1 *Buildings and Structures.* As used throughout this Conservation Easement, the term "**Building**" shall mean an enclosed space with walls and a roof that provides shelter or housing or provides working, office, parking, display space, including, but not limited to barns, sheds, cabins, garages, temporary living quarters of any sort, and mobile homes. As used throughout this Conservation Easement, the term "**Structure**" shall mean a man-made improvement, such as a dock, picnic pavilion, sign, billboard or other advertising material, utility tower, etc., that is not a Building, fence, or road. The construction, maintenance, repair, remodel, or replacement of new Buildings or new Structures consistent with the permitted uses as provided herein, or the maintenance, repair, remodel, relocation or, in the event of its destruction, reconstruction, replacement, or rebuilding of existing Buildings and Structures as documented in the Report is permitted: provided that no new construction or new placement of any Buildings or Structures shall occur within 100 feet of the banks of any body of water or within 100 feet of the edge of any wetlands as determined by the Holder in its sole and absolute discretion, with the exception of water lines and water tanks. Any existing Building or Structure documented in the Report may be replaced and/or rebuilt with another of similar size in its current footprint.

3.2.2 *Minor Agricultural Structures.* Agricultural Structures that neither individually nor collectively have an adverse impact on the Purpose of the Conservation Easement, and related Conservation Values of the Property

may be built with prior written approval of the Holder provided that the agricultural Structures are otherwise consistent with the Purpose of the Conservation Easement. Such new minor agricultural Structures shall not (i) impair the Conservation Values, (ii) be built within 100 feet of the banks of any body of water or within 100 feet of the edge of any wetlands or other applicable natural feature, as determined by the Holder in its sole and absolute discretion, with the exception of water lines or water tanks or well houses, or (iii) be used as overnight accommodations.

- 3.2.3 *Easements and Utilities.* The granting or modification of easements for utilities is prohibited when the utility will adversely impact the Purpose of the Conservation Easement as determined by the Holder, in their sole and absolute discretion. Utilities to serve approved Buildings or Structures, including on-farm energy structures allowed in **Paragraph 3.2.4** that neither individually nor collectively have an adverse impact on the Purpose of the Conservation Easement are allowed with prior written approval of the Holder. 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 Conservation Easement.
- 3.2.4 *Renewable Energy. On-Farm Energy Production.* Renewable energy production is allowed for the primary purpose of generating energy for the agricultural and residential needs of the Property. Renewable energy sources on the Property must be built and maintained within impervious surface limits set forth in **Paragraph 3.22**, with minimal impact on the Conservation Values of the Property and consistent with the Purpose of the Conservation 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 Conservation Easement. The construction, maintenance, repair, remodel or replacement of minor Structures related to the renewable energy production described in this Paragraph is permitted provided that nothing in this provision shall be construed as permitting the construction or establishment of a commercial wind farm or commercial solar energy generation facility. Such new minor renewable energy Structures shall not (i) impair the Conservation Values, (ii) be built within 100 feet of the banks of any body of water or within 100 feet of the edge of any wetlands or other natural feature as applicable, or (iii) be used as overnight accommodations.
- 3.2.5 *Water Structures.* Notwithstanding anything herein to the contrary, for the purposes of this **Paragraph 3.2** the term “Structure(s)” shall not be deemed to include water related structures, including without limitation new or existing dikes, mainlines, levees, ditches, pasture irrigation, irrigation wells, livestock watering, and irrigation facilities, or docks.

- 3.3 Fences. Existing fences may be maintained and replaced, and new fences installed if they are necessary for agricultural operations or other allowed uses on the Property or to mark boundaries of the Property. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the Purpose of the Conservation Easement. Any new fencing shall not exclude or unduly restrict wildlife movement or otherwise adversely affect the Conservation Values; provided, however, that fencing may be built to specifically exclude wildlife from residential yard areas, gardens, haystacks, cultivated fields, newly-seeded areas, and temporary vegetative restoration areas.
- 3.4 Roads and Trails. New roads may be constructed if they are within impervious surface limits set forth in **Paragraph 3.22**, approved in advance by the Holder, and are necessary to carry out the agricultural operations or other allowed uses on the Property. Maintenance of existing roads documented in the Report is allowed, however existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by the Holder, and necessary to carry out the agricultural operations or other allowed uses on the Property. If an existing road is unpaved, it shall only be maintained and repaired without paving, provided, however, that the Landowner may pave existing roads when such paving is done to provide an ecological benefit to the Property such as erosion prevention, and the Landowner has obtained the Holder's prior written approval. The granting or modification of easements for roads is prohibited when the road will adversely impact the agricultural use and future viability and related Conservation Values of the Property as determined by the Holder, in their sole and absolute discretion.
- 3.5 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 Conservation Easement Date, the Property might consist 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 Conservation Easement, and the restrictions and covenants of this Conservation Easement shall apply to the Property as a whole, and the Property shall not be sold, transferred, or otherwise conveyed except as a whole, intact, single piece of real estate it being expressly agreed that neither the Landowner nor the Landowner's personal representative, heirs, successors, or assigns shall sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property. Notwithstanding the foregoing but only in the case of scrivener's or technical errors in the survey or legal description, boundary line adjustments are permitted with the prior written consent of the Holder, which consent shall not be unreasonably withheld.

Regardless of anything to the contrary in the foregoing, 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, but no owner of an undivided

interest in the Property shall have the right to have the Property partitioned in kind, whether pursuant to Utah statute or otherwise.

- 3.6 Common Interest Communities. Construction and use of any common interest community, timeshare, condominium or other similar multiple-housing use unit, as such terms may be defined in relevant state statutes is prohibited.
- 3.7 Industrial or Commercial Uses. Industrial or commercial activities on the Property are prohibited except for the following, which shall be permitted only to the extent otherwise consistent with the provisions and Purpose of the Conservation Easement:
- 3.7.1 agricultural production and related uses in accordance with the terms and conditions of this Conservation Easement;
 - 3.7.2 the sale of excess power generated in the operation of alternative energy Structures and associated equipment or other energy Structures that the Holder approves in writing as being consistent with the Purpose of the Conservation Easement and in accordance with the terms and conditions of this Conservation Easement;
 - 3.7.3 temporary or seasonal outdoor activities or events that do not harm Purpose of the Conservation Easement; and
 - 3.7.4 commercial enterprises related to agriculture or forestry, including but not limited to marketing of farm products, farm machinery repair; provided that such customary rural enterprises are conducted in permitted Buildings and Structures.
- 3.8 Recreational 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 or the soils and agricultural operations and are consistent with the Conservation Purpose of the Conservation Easement. Recreational uses such as hunting or fishing in accordance with **Paragraph 3.9** below, horseback riding, cross-country skiing, bicycling, other traditional non-motorized recreational activities, dispersed camping, picnicking, bird watching, wildlife observation, and similar recreational activities are permitted, provided that such activities require no prohibited infrastructure, surface alteration, or development of or on the Property and provided that such activities do not negatively affect the grassland, grazing uses, and related Conservation Values or the soils and the agricultural operations or materially diminish or impair the Conservation Values of the Property and are consistent with the Purpose of the Conservation Easement.
- 3.9 Hunting and Fishing and Trapping. The Landowner, the Landowner's invitees, licensees, and lessees may hunt and fish on the Property, consistent with the

Purpose of the Conservation Easement, provided that all such hunting and fishing is non-commercial and is conducted in compliance with all state and federal laws and regulations and the terms of this Conservation Easement. Hunting and fishing uses permitted by this Paragraph may not require or result in any surface alteration or other development or disturbance of the Property, except that the Landowner may erect temporary and portable structures on the Property in association with such hunting activities. For the purpose of this Conservation Easement, “temporary and portable structures” are defined as those that are removed seasonally and do not require surface alteration of the Property. In controlling predatory and problem animals, the Landowner shall comply with all applicable laws and use selective and humane control techniques, including, where practicable, non-lethal deterrents and management, which shall be limited in their effectiveness to specific individual animals that have caused damage to livestock and other property. Trapping is prohibited.

- 3.10 Vehicles. Except in emergency situations, there shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles (“ATVs”) or other types of motorized recreational vehicles on the Property, except on roadways existing at the time of this Conservation Easement or new roadways permitted by this Conservation Easement, or in conjunction with activities otherwise allowed by this Conservation Easement, as described below. Cars, trucks, ATVs, snowmobiles, and other ranch vehicles shall not be considered as recreational vehicles when used for the ranching, agricultural, or hunting purposes allowed by this Conservation Easement. All permitted vehicle use shall be conducted in a manner that minimizes soil erosion, soil compaction, or in the interference with vegetation or the natural habitat of animal species or other Conservation Values on the Property. The temporary use of vehicular campers owned by the Landowner or guests on the Property is permitted as appropriate to accommodate normal visitation. Parking of vehicles related to the ranching, residential, and other permitted uses of the Property is permitted.
- 3.11 Hazardous and Toxic Materials. The dumping or other disposal of toxic and/or Hazardous Materials (defined in **Paragraph 19**) on the Property is prohibited. The storage of Hazardous Materials on the Property is also prohibited, except as lawfully stored and used in necessary quantities exclusively for use on the Property in accordance with applicable state and federal regulations and in connection with the permitted uses set forth herein.

Notwithstanding anything in this Conservation Easement to the contrary, this prohibition does not make the Holder an owner of the Property, nor does it permit the Holder to control any use of the Property by the Landowner which may result in the storage, dumping or disposal of Hazardous Materials; provided, however, that the Holder may bring an action to protect the Conservation Values of the Property, as described in this Conservation Easement.

- 3.12 Dumps. Accumulation or dumping of trash, refuse, sewage, or junk is not allowed on the Property provided however that a metal scrap pile or other piles of typical ranch/farm related materials intended to be re-used on the Property are not considered refuse. This restriction will not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products, or agricultural byproducts generated or used on the Property.
- 3.13 Biocides, Biological Agents, and Fertilizers. Application of herbicides, pesticides, fungicides, biocides, defoliants, chemical fertilizers, or other chemicals is prohibited on the Property except as follows:
- 3.13.1 Biocides. Herbicides, pesticides, fungicides, biocides and defoliants (collectively, “**Biocides**”) may be used to manage and/or control noxious weeds, invasive plants, non-native plants, pathogens, or pests on the Property, using accepted range management practices, provided the use of such Biocides is designed to minimize the impact on the Conservation Values. Any Biocide use as described in this Paragraph shall be: (i) in compliance with all applicable federal, state, and local statutes and regulations, (ii) in those amounts and with a frequency of application that constitutes the minimum necessary for control; (iii) applied consistent with label instructions, and (iv) consistent with the Conservation Values as determined by the Holder. Notwithstanding the foregoing, there shall be no indiscriminate broadcast spraying of Biocides. Without the prior written approval of the Holder, Biocides may be used by spot applications (including by gun or boom nozzles) only. Broadcast spraying of Biocides, including aerial applications, may be permitted with prior written approval by the Holder, provided that, at a minimum, the following conditions are met: (a) spot treatment is not practical because of the severity of the infestation or infection; (b) timing of application is scheduled to minimize damage to non-target species; and (c) type of Biocide used has the least impact to non-target species while still being effective in controlling target species or pathogens. The Holder shall have sole and absolute discretion in granting or denying broadcast spraying of Biocides.
- 3.13.2 Biological Agents. Use of biological weed and insect control agents is permitted, subject to prior written approval of the Holder.
- 3.13.3 Fertilizers. The use of chemical and/or organic fertilizers on the Property is permitted, provided that use of fertilizers, including, but not limited to, the amount, frequency, and manner of application, shall be in accordance with the labeling instructions and all applicable laws and regulations, and that fertilizer use shall not injure or destroy the naturally occurring ecosystem, beyond the effects associated with the intended use of such fertilizers, as used in reasonable farming practices. The use of organic fertilizers is permitted subject to prior written approval of Holder;

provided however, that use of organic fertilizers for landscaping and personal gardening does not require prior written approval of the Holder.

- 3.14 Introduction of Species. The introduction of species that are not native to the ecological systems in Utah is prohibited. Notwithstanding the foregoing, grazing and pasturing of livestock is permitted, and the raising and harvesting of hay on those areas that have been previously cultivated as described in the Report is permitted.
- 3.15 Forest Management and Timber Harvest. Forest management and timber harvesting are allowed, provided these activities are carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Property and is otherwise consistent with the Purpose of the Conservation Easement as determined by the Holder in its sole and absolute discretion. At the time the Landowner exercises the rights granted in this **Paragraph 3.15**, the 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 the Holder.

A forest management plan will not be required for the following allowed non-commercial activities: (a) cutting of trees for the construction of allowed roads, utilities, Buildings and Structures on the Property, (b) cutting of trees for trail clearing, (c) cutting of trees for domestic use as firewood, or for other domestic uses by the Landowner, (d) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (e) removal of invasive species.

- 3.16 Cutting, Removing, Destruction or Conversion of Native Vegetation. Cutting, removing, or destruction of native vegetation is prohibited except to the extent necessary to allow for uses and activities permitted under this Conservation Easement, such as prescribed fire, grazing, haying, and restoration activities permitted pursuant to an approved Restoration Plan as described in **Paragraph 3.19**. The Landowner shall have the right and the responsibility to control non-native plants and/or invasive or noxious plants as identified by the agency having jurisdiction over the same, subject to the provisions of this Conservation Easement with regard to biocides and biological agents. Except as permitted under **Paragraph 3.15**, there shall be no excavation and/or removal of native plants on or from the Property, except for those designated as noxious weeds or considered to be an invasive woody plant species, or when, based on consultation with and written permission from the Holder (or as approved in a Restoration Plan as described in **Paragraph 3.19**), it is agreed that excavation and/or removal of other types of native plants would enhance the Conservation Values of the Property. Grazing and uprooting of native plants by livestock as permitted by this Conservation Easement shall not be considered excavation or removal.

- 3.17 Mining.

3.17.1 Surface and Subsurface Mineral Exploration and Extraction. Any surface and subsurface exploration, mining, development, production, extraction or transportation (collectively, “**Mining Activities**”) of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance (collectively, “**Minerals**”) owned by the Landowner as of the date of this Conservation Easement or later acquired by the Landowner, using any surface mining, subsurface mining, or dredging method, from the Property is prohibited, except to the extent specifically set forth in **Paragraphs 3.17.1.1, 3.17.1.2, and 3.17.1.3** below.

3.17.1.1 Limited Mining Activities. Limited mining activities for materials (e.g. sand, gravel, or shale) used to facilitate the agricultural operations on the Property or for maintenance of the Property (such as maintaining roads) are allowed where the extraction of such materials is limited, localized, and small with a defined area and acreage. In the case of these limited Mining Activities done for agricultural operations or Property maintenance purposes, such Mining Activities (i) must be limited to a small, defined area or acreage no more than one-half acre in size identified in **Exhibit A-1**, (ii) does not harm the Purpose of the Conservation Easement, as determined by the Holder in its sole and absolute discretion, (iii) must be re-vegetated and restored to a natural condition promptly after completion of the Mining Activities. All extraction permitted under this Paragraph shall have only limited, localized impact.

3.17.1.2 Horizontal/Directional Drilling. Nothing herein shall prohibit Mining Activities under the Property using slant/horizontal drilling techniques from one or more drilling sites located off the Property provided that, with the exception of exploration activities conducted on the surface of the Property as permitted in **Paragraph 3.17.1.3** below, the Landowner shall not use or occupy any portion of the surface of the Property or the subsurface within the depth interval of 1000 feet below the surface of the Property, and the Landowner hereby waives any rights to the use of the surface and said subsurface interval of the Property in connection with any Mining Activities on or under the Property.

3.17.1.3 Exploration. Exploration activities may be conducted provided that they are non-invasive and do not adversely impact the Conservation Values. Without limiting the generality of the foregoing, no seismic shot holes or exploratory wells or any type of drilling may occur on the Property, and no explosives may be used.

3.17.1.4 Surface Agreements. The Holder is granted the right (but not the obligation) to negotiate and join as a party in any surface use agreement or other agreement that may be negotiated affecting the surface or subsurface of the Property, including without limitation any

exploration activities that may be conducted on the surface of the Property, for the protection of the Conservation Values.

3.17.1.5 Subsequently Transferred or Acquired Minerals. Any Mineral lease, surface use agreement, or other Mineral conveyance or renewal by the Landowner to a third party subsequent to the date of recording of this Conservation Easement shall be subordinate and subject to the restrictions of this Conservation Easement and must incorporate by reference this Conservation Easement, and a copy of the same shall be provided to the Holder prior to its execution by the Landowner for the Holder's review and, if the Holder so desires, approval. In the event the Landowner at any time becomes the owner or controls any Minerals that are severed as of the Conservation Easement Date and owned or controlled by a third party, then such Minerals shall be deemed immediately subject to this **Paragraph 3.17**, and any and all subsequent Mining Activities, Minerals conveyances and Minerals leases shall be bound by the provisions of this Conservation Easement.

3.17.2 Third Party Owned or Leased Minerals. If a third party owns or leases the Minerals at the time this Conservation Easement is executed, and their interests have not been subordinated to this Conservation Easement, the Landowner shall require, to the greatest extent possible, that any Mining Activities conducted by such third party are (i) not accomplished by any surface mining method; (ii) 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; (iii) within the impervious surface limits of the Conservation Easement; and (iv) carried out in accordance with all Federal, state, and local regulations.

3.17.2.1 Holder Rights. The Landowner agrees that by granting this Conservation Easement to the Holder, it has granted to the Holder a portion of its rights as owner of the surface of the Property on which Mining Activities may be conducted ("**Surface Owner**"). In addition to its interest as a holder of this Conservation Easement, the Holder is granted the right (but not the obligation) to negotiate and join as a party in any surface use agreement or other agreement that may be negotiated with third parties or their lessees for the protection of the Conservation Values. The Landowner agrees: (i) to provide the Holder with any notices the Landowner receives related to Mining Activities and (ii) that the Holder shall have the right, but not the obligation to approve in advance in writing any lease or agreement pertaining to use of the surface or subsurface of the Property for any Mining Activities, including any agreement permitted or required of a Surface Owner under relevant State law, as amended from time to time, and rules and regulations promulgated thereunder ("**Surface Use Agreement**"), between the Landowner and owners or lessees of Minerals,

which approval the Holder may withhold in its sole and absolute discretion if it determines that the proposed use would substantially diminish or impair the Conservation Values, is inconsistent with the preservation of the Conservation Values, is inconsistent with the terms of this Conservation Easement, or is not permitted under the terms of the Minerals reservation or severance or the Minerals lease.

3.17.2.2 Royalty Payments. In the event that an unrelated third party with an interest in the Mineral estate (which interest existed prior to the date of this Conservation Easement) undertakes Mineral development, the Landowner may collect proceeds from such development to which the Landowner is entitled by the Landowner's proportional ownership interest in the Minerals.

3.17.3 This **Paragraph 3.17** shall be interpreted in a manner consistent with § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto.

3.18 Surface Alteration. Plowing, grading, blasting, filling, sod farming, earth removal 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 for the following:

3.18.1 dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, or wetland restoration, enhancement, or creation, pursuant to a plan approved by the Holder, and a Restoration Plan as provided for in **Paragraph 3.19** is permitted;

3.18.2 erosion and sediment control pursuant to a plan approved by the Holder, in its sole and absolute discretion, and a Restoration Plan as provided for in **Paragraph 3.19** is permitted;

3.18.3 as required in the construction of approved Buildings, Structures, roads, and utilities; provided that the required alterations have been approved in writing by the Holder as being consistent with the Purpose of the Conservation Easement; and

3.18.4 agricultural activities conducted in accordance with the terms and conditions of this Conservation Easement and the agricultural land easement plan as described in **Paragraph 3** and pursuant to a Restoration Plan as provided for in **Paragraph 3.19** is permitted.

3.19 Restoration, Enhancement, and Research. The Landowner shall have the right (but not the obligation) to propose activities and projects that prevent the degradation of, restore, and/or enhance and improve the quality of the watershed, wildlife habitat, and ecological health of the Property and/or to propose other research, restoration, and/or enhancement activities, including but not limited to

soil erosion prevention and/or restoration activities as well as the filing and creation of new water rights and/or the alteration or change of existing Water Rights in furtherance thereof. The Landowner shall also have the right (but not the obligation) to propose research, restoration, and enhancement activities associated with scientific, educational, and/or historic projects. The Landowner's activities or projects under this **Paragraph 3.19** shall be undertaken only after creation of a comprehensive site-specific plan for restoration, enhancement and/or research (the "**Restoration Plan**"), which has been submitted to and approved by the Holder in its sole and absolute discretion.

3.20 Water Courses and Wetlands. Any new and intentional manipulation, diversion, or other alteration of natural water courses, wetlands, or other natural bodies of water, any new practice that degrades or destabilizes their natural banks or shorelines, any new pumping of groundwater whether tributary or not, or any other new development of water resources is prohibited, except as follows:

3.20.1 The development, construction, use and maintenance of new well(s) to provide domestic supply to Buildings and Structures permitted herein, or new stock watering facilities, such as wells, stock ponds and necessary infrastructure for their use, including but not limited to windmills, pipelines, stock tanks, and solar pumps are permitted; provided said wells or facilities are developed and constructed in a manner so as to minimize their impact to the Conservation Values.

3.20.2 The Landowner shall have the right to continue the historic use of the Water Rights on the Property (as described in the Report) and to maintain, repair, and if destroyed, reconstruct any existing facilities as documented in the Report related to the Water Rights (such as ditches, wells and reservoirs) and to construct new facilities as may be required to maintain the historic use of the Water Rights on the Property (as described in the Report) including, without limitation groundwater wells.

3.20.3 Pursuant to the terms and conditions of a Restoration Plan (as that term is defined in **Paragraph 3.19** above), the Landowner may engage in activities that prevent the degradation of the Conservation Values, restore, and/or enhance and improve the quality of the watershed, including but not limited to wetland creation, filing and creation of new water rights and/or the alteration or change of existing Water Rights in furtherance thereof.

3.21 Water Rights. The Landowner may use any and all of the Landowner's Water Rights for present and future agricultural production on the Property and for other permitted uses and may acquire additional water rights for agricultural use and other permitted uses. The Water Rights may not (a) be changed to or used for municipal, industrial, non-agricultural or ranching commercial uses, or other new uses, (b) be changed for use other than on the Property, (c) be sold, leased, encumbered separately from the Property or otherwise legally separated from the

Property, or (d) have their points of diversion, or their type or place of use within the Property substantially changed, except after a written determination by the Holder in its sole judgment that such change, sale, lease or encumbrance, does not impair the Conservation Values of the Property. No loss of any or all of the Water Rights through injury or abandonment, shall be considered a loss, severance or other transfer of the Water Rights from the Property for federal or state tax or other purposes.

- 3.22 Limitation on Impervious Surfaces. Impervious surfaces will not exceed two percent (2%) of the Property. 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 or structures with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to the Holder by this Conservation Easement.
- 3.23 Feedlots. Establishment and operation of a livestock feedlot (which shall be defined for purposes of this Conservation Easement as a permanently constructed confined area within which the land is not grazed or cropped annually, and which is used and maintained for purposes of engaging in the business of the reception and feeding of livestock) is prohibited. Nothing in this section shall prevent the Landowner from seasonally confining the Landowner's livestock into an area for feeding or from leasing pasture for the grazing of livestock owned by others or for pasture finishing animals for slaughter.
- 3.24 Other Activities. If any question exists regarding whether historic, current, or new practices or activities are permitted or would be inconsistent with the Purpose of the Conservation Easement or would diminish or impair the Conservation Values, the Landowner shall notify the Holder in writing and obtain the Holder's written approval, prior to engaging in such practices or activities.

4. NOTICE AND APPROVAL REQUIREMENTS.

4.1 Notice. For activities for which Holder's prior approval is not expressly required, Landowner hereby agrees to notify Holder in writing fifteen (15) days before exercising any reserved or retained right under this Conservation Easement that may have an adverse impact on the Conservation Values (unless a different time period is otherwise expressly required in this Conservation Easement).

4.2 Approval. When Holder's approval is required prior to Landowner engaging in any activity (or when Holder's approval is required for any other purpose under this Conservation Easement), Landowner's request for approval shall be in writing and contain detailed information regarding the proposed activity, and Holder's approval (if the request is approved) shall be in writing. Landowner's request shall be delivered to Holder at least sixty (60) days prior to the anticipated start date of such activity. Holder agrees to use reasonable diligence to respond to the

request in writing within 60 days; however, approval shall not be deemed to have been given in the event Holder fails to respond within 60 days, affirmative approval must be provided.

This section is only intended to request approval for activities which are expressly allowed in the Conservation Easement but are subject to Holder's approval or consent. It is not intended for any other purpose, including, without limitation, to request approval for activities that are expressly prohibited or activities for which an amendment of this Conservation Easement is needed.

5. HOLDER'S RIGHTS. To accomplish the Conservation Purpose, the following rights are granted to Holder (and Holder's agents, representatives and invitees) by this Conservation Easement:

5.1 Right to Enforce. The right to preserve and protect the Conservation Values of the Property and enforce the terms of this Conservation Easement.

5.2 Right of Entry. The right to enter the Property at reasonable times for the purposes of: (a) inspecting the Property to determine if there is compliance with the terms of this Conservation Easement; (b) obtaining evidence for the purpose of seeking judicial enforcement of this Conservation Easement; provided, however, that the foregoing rights of Holder shall not relieve Landowner from any obligations to comply with the terms of this Conservation Easement or waive any of Holder's rights or remedies to enforce this Conservation Easement against any violation.

Holder agrees that entry will be done in a manner that will not interfere unreasonably with Landowner's permitted uses of the Property. Holder also agrees to provide advance notice to Landowner prior to entering the Property, except in any case where immediate entry is necessary or desirable to prevent, terminate, or mitigate damage to, or the destruction of, the Conservation Values, or to prevent, terminate or mitigate a violation of the terms of this Conservation Easement. In the event Landowner elects to maintain gated, locked access to and through the Property, Landowner shall provide Holder with keys for all such locks.

This right of entry shall include the right to access the Property over roads owned by Landowner and any rights-of-way or other access ways now or hereafter available to Landowner for access to the Property.

6. VIOLATION AND REMEDIES.

6.1 Notice of Violation; Corrective Action. If Holder determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Holder shall give written notice to Landowner of such violation and demand corrective action sufficient to (a) cure the violation, and (b) where the violation involves injury to the Property resulting from any use or activity inconsistent with the Conservation Purpose, restore the portion of the Property so injured to its condition before the violation occurred, or to a condition otherwise acceptable to Holder, in accordance with a plan approved by the Holder.

6.2 Injunctive Relief. If Landowner fails to cure the violation or threatened violation of this Conservation Easement, fails to comply with any affirmative obligation under this Conservation Easement, or fails to cause such other corrective action to be taken as requested by

the Holder within forty-five (45) days after receipt of notice thereof from Holder, or under circumstances where the violation cannot reasonably be cured within the forty-five (45) day period, fails to make good faith efforts to initiate and pursue the requested corrective action within the forty-five (45) day period, Holder may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury or to a condition otherwise acceptable to Holder (regardless of whether the costs of restoration exceed the value of the Property). The Holder shall be entitled to seek expedited injunctive relief to enforce its rights with respect to the Property, and the Landowner waives any bond requirement otherwise applicable to any petition for such relief.

6.3 Damages. Holder shall be entitled to recover damages for violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, including, without limitation, damages for the loss of environmental, ecologic, scenic or aesthetic values.

6.4 Emergency Enforcement. If Holder, in its sole discretion, determines that circumstances require immediate action to prevent, terminate or mitigate significant damage to the Conservation Values of the Property, or to prevent, terminate or mitigate a violation of this Conservation Easement, the Holder may pursue its remedies under this section without prior notice to Landowner and/or without waiting for the period provided for cure to expire.

6.5 Scope of Relief. Holder's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. Landowner agrees that Holder's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Holder shall be entitled to the injunctive relief described above, both prohibitive and mandatory, in addition to such other relief to which Holder may be entitled, including without limitation: (a) specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies; and (b) the right to enter the Property to undertake any corrective action Holder may elect to complete. Holder's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6.6 Costs of Enforcement. In any action, suit or other proceeding undertaken to enforce any right or obligation under this Conservation Easement, or to interpret any of the provisions of this Conservation Easement, if the court determines that Landowner has failed to comply with this Conservation Easement, Landowner shall reimburse Holder for any reasonable costs associated with enforcement, including Holder's staff time, costs of restoration, court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court.

6.7 Forbearance. Forbearance by Holder to exercise its rights under this Conservation Easement in the event of any violation of any term of this Conservation Easement by Landowner shall not be deemed or construed to be a waiver by Holder of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Holder's rights under this Conservation Easement. No delay or omission by Holder in the exercise of any right or

remedy upon any breach by Landowner shall impair such right or remedy or be construed as a waiver.

6.8 Waiver of Certain Defenses. Landowner hereby waives any defense of laches, estoppel or prescription with respect to any failure to act or any delay by Holder in enforcing any restriction or exercising any rights under this Conservation Easement.

6.9 Natural Events. Nothing contained in this Conservation Easement shall be construed to entitle Holder to bring any action against Landowner for any injury to or change in the Property resulting from any natural event, natural cause, or natural disaster (collectively, **Natural Events(s)**) beyond Landowner's control, including, without limitation, weather, fire, flood, storm, infestation, natural deterioration, earth movement, climate change, or from any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such a Natural Event. Landowner shall notify Holder of any Natural Event or acts taken in response to such a Natural Event that may adversely affect or interfere with the Purpose or Conservation Values, whether caused by the Natural Event or the Landowner's or a third party's acts or omissions in response to the Natural Event. If a Natural Event alters the Property, Landowner and Holder will work together to identify restoration or rehabilitation activities and develop a restoration plan. Nothing in this subsection shall prohibit Holder from bringing an action against Landowner for any violation of the terms of this Conservation Easement resulting from Landowner's negligence or intentional misconduct in response to the Natural Event.

6.10 Acts of Third Parties. Nothing contained in this Conservation Easement shall 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 the 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 shall notify Holder of any act or occurrence that would adversely affect or interfere with the Conservation Purpose, whether caused by the 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 shall cooperate fully with Holder in enforcement of this Conservation Easement, including but not limited to: gathering facts and information relevant to the violation; assigning its right of action to the Holder; joining in any claim or legal action; and/or appointing the Holder as its attorney-in-fact for purposes of enforcement, all at the election of the Holder. In the event that such third party acts interfere with the Conservation Purpose and/or Conservation Values of this Conservation Easement, Landowner and Holder will work together to identify restoration or rehabilitation activities and develop a restoration. This Subsection shall 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 Purpose of this Conservation Easement. Nothing in subparagraph (b) of this Subsection 6.10 shall 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.

6.11 Enforcement Rights of Others. Nothing in this Conservation Easement is intended to create any right to enforce this Conservation Easement in any third party where no such right otherwise exists under this Conservation Easement or under law. Nothing contained herein shall affect any rights that the State of Utah might have to protect the public's interest in any matter pertaining to this Conservation Easement.

7. COSTS AND LIABILITIES. 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, or the protection of Landowner, the public, or any third parties from risks relating to conditions on the Property. Landowner shall maintain adequate comprehensive general liability insurance coverage on the Property. Landowner shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Landowner.

Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively **taxes**). Holder may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to reimbursement by Landowner.

8. ACCESS. Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof. Landowner will undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities might diminish or impair the Conservation Values.

9. TRANSFER OF EASEMENT. The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable. Holder shall have 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 thereof) and is qualified to hold the Conservation Easement under applicable state law, and (b) as a condition of transfer, agrees to uphold the Conservation Purpose of this Conservation Easement, 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 state law, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility. The Holder may also assign separately, without the Landowner's consent, all restrictions and responsibilities in this Conservation Easement concerning the Water Rights subject to the terms of this Conservation Easement. In the event Holder transfers or assigns this Conservation Easement, in whole or in part, Holder is hereby granted the right to reserve a third-party right of enforcement if Holder so elects at the time of the transfer.

10. TRANSFER OF PROPERTY. As set forth below, Landowner agrees that a reference to this Conservation Easement will be inserted by Landowner in any subsequent deed or other legal instrument by which Landowner divests either the fee simple title or possessory interest in the Property, including without limitation a leasehold or mortgage interest. Landowner further agrees

to notify Holder of any pending transfer at least thirty (30) days in advance of transfer and to provide Holder with a copy of any legal instrument affecting such transfer within thirty (30) days following its execution. The failure of Landowner to comply with this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way. Any successor in interest of Landowner, by acceptance of a deed or other document purporting to convey an interest in the Property, shall be deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions and conditions of this Conservation Easement.

11. PRESUMPTION AGAINST AMENDMENT. It is the parties' intention that this Conservation Easement will not be amended or modified. In the event of unforeseen circumstances or exceptional situations the Holder may in its sole discretion consider an amendment or modification to this Conservation Easement, but in no event shall such amendment be made without compliance with Holder'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 Conservation Easement as a charitable gift (if applicable) or the status of Holder under any applicable laws, including §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 purpose of the Conservation Easement, diminish the Conservation Values or affect the Conservation Easement's perpetual duration. Any such amendment shall be signed by both parties, and shall be recorded in the official records of the county in which the Property is located.

12. EASEMENT VALUATION, EXTINGUISHMENT, TERMINATION, EMINENT DOMAIN.

12.1 Value of Easement and Proceeds. Landowner hereby agrees that at the time of the conveyance of this Conservation Easement, this Conservation Easement gives rise to a property right, immediately vested in Holder, with a fair market value that is at least equal to the proportionate value that this Conservation Easement at the time of the conveyance, bears to the value of the Property as a whole at that time, which the parties have determined through a "qualified appraisal" prepared in accordance with 26 C.F.R. 1.170A-17 *et seq* to be 72.7%. That proportionate value of Landowner's property rights shall remain constant. Accordingly, when a change in conditions gives rise to the extinguishment of this Conservation Easement (including if this Conservation Easement is extinguished, terminated, or taken by eminent domain as described below), Holder on a subsequent sale, exchange or involuntary conversion of the Property, shall be entitled to a portion of the proceeds at least equal to that proportionate value of this Conservation Easement, unless state law provides that Landowner is entitled to the full proceeds from the conversion without regard to the terms of this Conservation Easement.

Holder shall use any proceeds received in conjunction with this provision and the following provisions in a manner consistent with the Conservation Purpose of this Conservation Easement.

12.2 Extinguishment or Termination. This Conservation Easement may be released, terminated or otherwise extinguished, whether in whole or in part, only if a court with jurisdiction determines a subsequent unexpected change in conditions surrounding the Property can make

impossible or impractical the continued use of the Property for the Conservation Purpose of this Conservation Easement.

No loss of any or all of the Water Rights through injury or abandonment shall be considered a termination or extinguishment of all or any part of this Conservation Easement.

12.3 **Eminent Domain.** Whenever all or part of the Property is taken with authority to exercise eminent domain by public, corporate, or other authority so as to terminate or extinguish the restrictions imposed by or that can make impossible or impractical the continued use of the Property consistent with the Conservation Purpose of this Conservation Easement, Landowner and Holder shall join in appropriate actions and negotiations at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, which proceeds shall be divided in accordance with the value of Landowner's and Holder's interests, as described above.

13. **CHANGED CONDITIONS.** In making this grant, Landowner has considered the possibility that uses prohibited by the terms of this Conservation Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under the terms of this Conservation Easement shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment. It is the intent of both Landowner and Holder that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment or amendment of this Conservation Easement.

14. **INTERPRETATION.** This Conservation Easement shall be interpreted under the laws of the state or commonwealth in which the Property is located, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purpose. No remedy or election given by any provision in this Conservation Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party has reviewed and revised this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement. In the event of any conflict between the provisions of this Conservation Easement and the provisions of any use and zoning restrictions of the state or county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive provisions shall apply.

15. **INDEMNIFICATION.** Landowner hereby agrees to indemnify, defend (with counsel approved by Holder, which approval will not be unreasonably withheld) and hold harmless Holder and each of Holder's officers, directors, employees, agents, invitees, and contractors from and against any and all claims, costs, liabilities, penalties, damages, or expenses of any kind or nature whatsoever (including, but not limited to, court costs and reasonable attorneys' fees and expenses) arising or resulting from this Conservation Easement or any activities on the Property, except to the extent caused by the gross negligence or intentional misconduct of Holder.

16. **TITLE.** Landowner covenants, represents and warrants that Landowner is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, including but not limited to, any mortgages or deeds of trust not subordinated to this Conservation Easement, and that Holder shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement; and that there is no pending or threatened litigation in any way affecting, involving or relating to the Property.

17. **NOTICES.** Any notices required by this Conservation Easement shall be in writing and shall be served by any of the following means: (i) by delivery in person, in which case notice shall be deemed given upon delivery (or refusal of delivery), (ii) by certified U.S. mail, return receipt requested, postage prepaid, in which case notice shall be deemed given upon the earlier of the date of first attempted delivery or the third day after deposit in the mail, or (iii) by reputable commercial courier service, charges prepaid, in which case notice shall be deemed given upon the earlier of the date of first attempted delivery or the third day after deposit with the courier service. All notices shall be sent to the following addresses, or such other address as either party may hereafter specify by written notice to the other:

To Landowner:

M. Moreno Robins Properties, LC
3373 North 175 East
Provo, UT 84604

To Holder:

Legal Department
The Nature Conservancy
559 East South Temple
Salt Lake City, UT 84102

18. **DENSITY.** Neither the Property nor any portion of it shall be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.

19. **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 thereon. Landowner covenants, represents, and warrants that, after investigation and to the best of their knowledge:

(a) Landowner and the Property are in compliance with, and shall remain in compliance with, all applicable Environmental Laws (as defined below). Landowner has no actual knowledge of any use or release of Hazardous Materials (as 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 the operations or conditions on the Property.

(b) **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, health protection and similar environmental health, safety, building and land use laws and regulations as may now or at any time hereafter be in effect.

(c) **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 may pose a present or potential hazard to human health or the environment. The term "Hazardous Materials" shall also include related materials defined in the CERCLA (42 USC 9601 et seq.), and the Hazardous Materials Transportation Act (49 USC section 6901 et seq.), and in the regulations adopted and publications promulgated pursuant to them, and any other applicable federal, state, or local laws, ordinances, rules, or regulations now in effect or enacted after this date.

(d) 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 federal, state, and local laws, regulations, and requirements.

Without limitation of any other indemnity or release set forth in this Conservation Easement, Landowner releases and shall 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 and/or related to the use, deposit or release of any Hazardous Materials and/or substances regulated by Environmental Laws on the Property. Nothing in this Conservation Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability to Holder to exercise physical or managerial control over the day-to-day operations of the Property, or 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 ("CERCLA"), or any successor, related, or similar law, or any corresponding state statute.

20. **SECTION 2031(c) FEDERAL ESTATE TAX EXCLUSION.** Landowner desires to qualify this Conservation Easement for estate tax exclusion under § 2031(c) of the Internal Revenue Code. Notwithstanding anything herein to the contrary, to qualify this Conservation Easement for treatment under Internal Revenue Code § 2031(c)(8)(B) any use of the Property for more than a *de minimis* use for a commercial recreational activity is prohibited.

21. **COMPLIANCE WITH APPLICABLE LAWS.** Landowner shall comply with all Federal, state, and/or local statutes, laws, ordinances, rules, regulations, codes, orders, guidelines, or other restrictions, or requirements applicable to the Property (**Applicable Laws**). Nothing

herein shall be construed to allow Landowner to engage in any activity which is restricted or prohibited by Applicable Laws.

22. **SEVERABILITY.** If any provision of this Conservation Easement is found to be invalid, the remaining provisions shall not be altered thereby.

23. **PARTIES.** Every provision of this Conservation Easement that applies to Landowner or Holder shall also apply to their respective heirs, executors, administrators, assigns, and all other successors as their interest may appear. A person's or entity's obligation hereunder as Landowner, or successor owner of the Property, shall be joint and several, and will cease, if and when such person or entity ceases to have any present, partial, contingent, collateral, or future interest in the Property (or pertinent portion thereof), but only to the extent that the Property (or relevant portion thereof) is then in compliance herewith. Responsibility of owners for breaches of this Conservation Easement that occur prior to transfer of title will survive such transfer, provided that the new owner shall also be responsible for bringing the Property into compliance.

24. **RE-RECORDING.** In order to ensure the perpetual enforceability of the Conservation Easement, Holder is authorized to re-record this instrument or any other appropriate notice or instrument; 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.

25. **SUBSEQUENT LIENS ON PROPERTY.** 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. Said subsequent mortgage or lien shall 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.

26. **ACCEPTANCE & EFFECTIVE DATE.** As attested by the signature of its authorized representative, Holder hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement is to be effective the date recorded in the Land Records of the county or parish in which the Property is located.

27. **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.

28. **ENTIRE AGREEMENT.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with the terms of this Conservation Easement.

29. **CAPTIONS, RECITALS AND EXHIBITS.** The captions herein have been inserted solely for convenience of reference, are not a part of this Conservation Easement, and shall have no effect upon its construction or interpretation. The Recitals set forth above and all Exhibits referred to in this Conservation Easement are an integral part of this Conservation Easement and are incorporated herein by reference.

30. **GOVERNING LAW.** This Conservation Easement will be interpreted in accordance with the laws of the state or commonwealth in which the Property is located.

31. **DISCLAIMER.** Holder does not represent the interests of Landowner. Holder has advised Landowner to have the document reviewed by Landowner's attorney, and Landowner has had ample opportunity to do so. Holder makes no representation as to whether this Conservation Easement qualifies for a charitable deduction or if it is in the proper form for that purpose, in the event Landowner claims a charitable gift deduction on its federal or state income tax returns.

32. **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 nature, unless explicitly included in said permission. Likewise, permission by the Holder to carry out, or failure by the 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 the 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.

33. **MERGER.** The parties agree that the terms of this Conservation Easement shall survive any merger of the fee and conservation easement interests in the Property.

TO HAVE AND TO HOLD this Conservation Easement, together with all appurtenances and privileges belonging or in any way pertaining thereto, either in law or in equity, either in possession or expectancy, for the proper use and benefit of Holder forever.

IN WITNESS WHEREOF, Landowner and Holder have executed this document the day and year first above written.

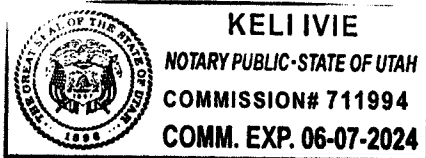
LANDOWNER:
M. Moreno Robins Properties, LC,
a Utah limited liability company

By: M. Moreno Robins
Name: M. Moreno Robins
Title: Managing Member

STATE OF Utah)
) ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 17 day of Dec, 2020
by M. Moreno Robins [name], Managing Member [title] of M. Moreno
Robins Properties, LC, a Utah limited liability company.

[SEAL]



[Signature]
(Notary's official signature)

11/7/2024
(Commission expiration date)

HOLDER:
The Nature Conservancy,
a District of Columbia nonprofit corporation

By: [Signature]

Name: Dave Livermore

Title: Utah State Director

STATE OF Utah)
COUNTY OF Salt Lake) ss.

The foregoing instrument was acknowledged before me this 7th day of December, 2020
by Dave Livermore [name], Utah State Director [title] of The Nature
Conservancy, a District of Columbia nonprofit corporation.

[SEAL]

[Signature]
(Notary's official signature)

8/5/2023
(Commission expiration date)

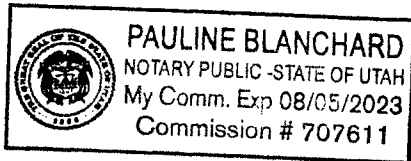


EXHIBIT A
Property Description

Commencing at a point located South 89°53'01" East along the Section line 1419.56 feet and South 398.65 feet from the Northwest corner of Section 4, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence South 02°55'24" West 743.60 feet; thence North 89°55'50" West 1567.02 feet; thence North 05°53'40" East 498.29 feet; thence North 04°52'10" East 128.56 feet; thence North 04°09'44" East 402.26 feet; thence South 61°52'03" East 343.89 feet; thence North 89°25'00" East 942.48 feet; thence South 63°50'00" East 298.57 feet to the point of beginning.

TOGETHER WITH a right of way from the North line of the Boat Harbor Road to the South line of the above described parcel of land, said right of way being one (1) rod wide (16.5 feet wide) over and across the following described strip of land:

Beginning at a point on the North fenced right of way of the Boat Harbor Road, and the West line of fenced right of way or lane, said beginning point being South 2659.19 feet and East 1519.49 feet (based upon the Utah State Plane Coordinate System, Central Zone, Bearings of Section Lines) from the Northwest corner of Section 4, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence along a fence line North 02°41'24" West 591.87 feet; thence along said fence line North 01°56'38" West 448.81 feet; thence continuing along said fence line North 27°39'02" West 146.89 feet; thence continuing along said fence line North 21°16'08" West 84.51 feet; thence continuing along said fence line North 05°02'20" West 269.58 feet to a fence line; thence South 89°55'50" East along said fence line 16.56 feet; thence South 05°02'20" East 265.73 feet; thence South 21°16'08" East 82.18 feet; thence South 27°39'02" East 149.03 feet; thence South 01°56'38" East 452.61 feet; thence South 02°41'24" East 591.84 feet to the North line of said Boat Harbor Road; thence South 88°52'00" West along the North line of said Boat Harbor Road 16.50 feet to the point of beginning.

EXHIBIT A-1
Map of Property



EXHIBIT B
Water Rights

50% interest in an underground water well: WR# 55-3150