

WHEN RECORDED RETURN TO:

**PROPERTY  
CONSERVATION EASEMENT**

THIS CONSERVATION EASEMENT DEED (“Easement”, or “Conservation Easement”) is made effective as of the date delivered for recording (“Effective Date”), by and among by and between SUMMIT COUNTY, a political subdivision of the State of Utah, having an address at 60 N. Main Street, P.O. Box 128, Coalville, Utah 84017, (the “Grantor”), in favor of \_\_\_\_\_, a Utah nonprofit corporation (“Grantee”). Grantor and the Grantee are referred to individually as a “Party” and collectively as the “Parties”.

The following Exhibits are attached to and are incorporated into this Easement by this reference:

- Exhibit A: Legal Description of the Property Including Water Rights;
- Exhibit B: Property Map
- Exhibit B-1: Map of Building Envelope
- Exhibit C: Permitted and Restricted Uses and Practices
- Exhibit D: Signed “Acknowledgment of Property Condition”

**RECITALS**

A. Grantor owns approximately \_\_\_\_\_ acres of land and water rights located \_\_\_\_\_, Summit County, State of Utah (the “Property”). The Property is described in Exhibit A and shown for reference purposes on the Property Map attached as Exhibit B.

B. Grantor has agreed to convey the Property to Grantee, in perpetuity, pursuant to the terms of this Conservation Easement and the provisions of Section 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the “Code”).

C. Baseline conditions of the Property are set forth in a Baseline Documentation Report (the “Baseline”, as more fully described below), a copy of which is maintained in the files of the Grantee.

D. As fee owner of the Property, Grantor owns the affirmative rights to identify, preserve, and protect forever the Conservation Values (defined below) of the Property. Grantor desires to grant a conservation easement to the Grantee pursuant to the Land Conservation Easement Act of Utah’s statutes, Utah Code Ann., Sections 57-18-1 to 57-18-7, which authorizes

protection of natural, scenic, open space, aesthetic, historic, hydrologic, ecological, agricultural, and scientific values that are of great importance to Grantor, the Grantee, the people of Summit County, and the people of the State of Utah, and in accordance with the federal tax code and Internal Revenue Service (“IRS”) rules and regulations applicable to qualified conservation contributions.

E. The Property possesses natural, forested, scenic, cultural, historical, wildlife, and open space values (collectively the "Conservation Values") of great importance to Grantor and the Grantee, as well as the people of Summit County, and the people of the State of Utah. The Conservation Values are more fully described in the Baseline Documentation (*defined below*). The values described in these Recitals and in the Baseline are referred to in this instrument as the “Conservation Values.”; and

F. As of the Effective Date, the Grantee is a nonprofit corporation, incorporated and qualified to do business under the laws of Utah as tax-exempt public charity described in Sections 501(c)(3) and 509(a)(1) of the IRS Code (*defined below*). Grantee is organized to protect and conserve natural areas and ecologically significant land for scientific, charitable, and educational purposes; and is a “qualified organization” as defined in Section 170(h) of the Code. The Grantee qualifies as a “holder” of a conservation easement under the Utah Land Conservation Easement Act (Utah.Code.Ann. § 57-18-1, et seq).

G. To accomplish the Conservation Purposes (*defined below*), Grantor desires to convey to the Grantee and the Grantee desires to obtain from the Grantor a conservation easement that restricts the uses of the Property and that grants certain rights to the Grantee in order to preserve, protect, identify, monitor, enhance, and restore in perpetuity the Conservation Values.

H. The rights granted to the Grantee under this Easement have been donated in part by Grantor, and this Easement is intended to qualify as a “qualified conservation contribution” under Section 170(h) the Code.

## **CONSERVATION EASEMENT TERMS**

IN CONSIDERATION of the recitals set forth above, the mutual covenants, terms, conditions, and restrictions contained in this Easement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, and pursuant to the Utah state law, in particular, the ‘Land Conservation Easement Act’ of Utah’s statutes, Utah Code Ann., Sections 57-18-1 to 57-18-7, Grantor voluntarily grants and conveys to, and the Grantee accepts, a perpetual conservation easement in, on, over, and across the Property subject to the terms and conditions set forth in this Easement, restricting forever the uses that may be made of the Property and granting the Grantee certain rights in the Property; and Grantor and the Grantee agree as follows:

1. CONSERVATION PURPOSES. The purpose of this Easement are to preserve and protect in perpetuity the Conservation Values of the Property. In particular, the purpose of this

Easement is to protect the Property's open space, recreation and scenic character, productivity and future viability, its relatively natural wildlife habitat for aquatic and terrestrial wildlife and its water quality. In achieving the above-named purposes (collectively, together with the "Conservation Purposes" or "purposes of this Easement"), it is the intent of this Easement to permit such uses of the Property as may be conducted consistent with the Conservation Values protected herein.

2. BASELINE DOCUMENTATION REPORT. By its execution of this Easement, the Grantee acknowledges that Grantor's present uses of the Property are compatible with the purposes of this Easement. In order to evidence the present condition of the Property (including both natural and man-made features) and to facilitate future monitoring and enforcement of this Easement, the Parties acknowledge that a Baseline Documentation Report (the "Baseline") has been prepared, which provides a collection of baseline data on the Property and its natural resources and an assessment of the consistent uses. By their signatures to and certification of the Baseline, and further by signature of this Easement, the Parties agree that pursuant to the provisions of Treas. Reg. Section 1.170A-14(h)(6) the Baseline contains an accurate representation of the biological and physical condition of the Property as of the Effective Date (as hereinafter defined) and of the historical uses of the Property, including historical water uses. In addition to the public benefits described as the Conservation Values, the Baseline identifies public policy statements and/or other factual information supporting the significant public benefit of this Easement. Grantor and the Grantee approve the Baseline, a copy of which is on file with the Grantor and the original of which is on file with the Grantee at their respective addresses for notices set forth below.

3. THE GRANTEE'S RIGHTS. In order to accomplish the Conservation Purposes, the rights and interests that are granted and conveyed to the Grantee by this Easement consist of the following:

A. Preserve and Protect. The right to preserve, protect, identify, and monitor the Conservation Values in perpetuity, and, in the event of their degradation or destruction, the right to the legal remedies set forth herein or otherwise permitted by law.

B. Entry and Access Rights. The Grantee is, by this Easement, granted rights of access, whether by public ways or otherwise and including, but not limited to, any access easements appurtenant to the Property or held by Grantor, to enter upon the Property in order to monitor compliance with and otherwise enforce the terms of this Easement, to study and make scientific observations of the Property and of natural elements and ecosystems and other features of the Property, and to determine whether the Grantor's activities are in compliance with the terms of this Easement, all upon reasonable prior written notice to Grantor and in a manner that does not unreasonably disturb the use of the Property by Grantor consistent with this Easement. The Grantee has the right of immediate entry to the Property if, in its sole judgment, such entry is necessary to investigate, prevent, terminate, or mitigate a violation of this Easement, or to preserve and protect the Conservation Values. Notwithstanding the Grantee's right to access the Property, Grantee shall not be permitted to access or enter any dwellings on the Property without the express written consent of the Grantor.

C. Enforcement. The Grantee has the right to prevent or enjoin any activity on or use of the Property that constitutes a breach of this Easement or is inconsistent with the perpetual preservation of the Conservation Values, and the Grantee has the right to require the Grantor to restore such areas or features of the Property to the condition existing immediately prior to the activity complained of by such breach or inconsistent use or activity.

4. USES OF THE PROPERTY. Except as prohibited or otherwise limited by this Easement, Grantor reserves the right to use and enjoy the Property in any manner that is consistent with the Conservation Purposes and the perpetual preservation of the Conservation Values. Grantor will not perform, or allow others to perform, any act on or affecting the Property that is inconsistent with the Conservation Purposes. The uses set forth in Exhibit C, though not an exhaustive list of consistent uses and practices, are consistent with this Easement and will not be precluded, prevented, or limited, except as specifically set forth in Exhibit C. Any activity on or use of the Property that is inconsistent with the Conservation Purposes (including, without limitation, any activity or use that diminishes or impairs the Conservation Values) is prohibited. Though not an exhaustive list of prohibited and restricted uses, Exhibit C also describes such uses or activities that are inconsistent with the Conservation Purposes and are thus prohibited or restricted.

5. APPROVAL REQUEST.

A. The Grantee's Approval. Grantor will not undertake or permit any activity which by the specific provisions of this Easement require prior approval by the Grantee without first having notified and received approval from the Grantee as provided herein. Prior to the commencement of any activity for which this Easement requires prior written approval by the Grantee, Grantor will send the Grantee written notice of Grantor's intention to undertake such activity. The notice will inform the Grantee of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and all other relevant information. If in the Grantee's judgment additional information is required to adequately review the proposal, the Grantee will send written notice requesting such additional information within 15 days of receipt of Grantor's notice.

B. The Grantee's Decision. No later than forty-five (45) days from the Grantee's receipt of information adequate to review the proposal, the Grantee will notify Grantor of its disapproval or approval of Grantor's proposal, or that the Grantee may approve the proposal with certain specified modifications. The Grantee's decision must be based upon the Grantee's assessment of the proposed activity in relation to its consistency or inconsistency with the terms of this Easement. Approval to proceed with or failure to object to any proposed use or activity will not constitute consent to any subsequent use or activity of the same or any different nature. Grantee's failure to respond within the forty-five (45) day period shall be deemed a constructive denial, which shall be procedural in nature only, and Grantor, may resubmit the request for approval without prejudice and/or may seek relief from the courts and recover reasonable fees and costs if a court rules the constructive denial unjustified.

6. ENFORCEMENT AND REMEDIES.

A. Notice of Violation; Corrective Action. If the Grantee becomes aware that a violation of the terms of this Easement has occurred or is threatened to occur, the Grantee will give written notice to Grantor of such violation, and Grantor shall in the case of an existing violation, promptly cure ("Grantor's Right to Cure") the violation by (a) ceasing the same and (b) restoring the Property to the condition before such violation, or in the case of a threatened violation, refrain from the activity that would result in the violation. If Grantor fails to cure the violation within thirty (30) days after receipt of notice from the Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30)-day period, fails to begin curing such violation within the thirty (30)-day period or fails to continue diligently to cure such violation until finally cured, the Grantee will have all remedies available at law or in equity to enforce the terms of this Easement, including, without limitation, the right to seek a temporary or permanent injunction with respect to such activity, to cause the restoration of that portion of the Property affected by such activity to the condition that existed immediately prior to the undertaking of the activity complained of (regardless of whether the costs of restoration exceed the value of the Property), and to otherwise pursue all available legal remedies, including, but not limited to, monetary damages arising from the violation. The Grantee's rights under this Paragraph apply equally to actual or threatened violations of the terms of this Easement. Grantor agrees that the Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee is entitled to the injunctive relief described in this Paragraph, both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Furthermore, the provisions of the 'Land Conservation Easement Act' of Utah's statutes, Utah Code Ann. Sections 57-18-1 to 57-18-7, are incorporated into this Easement by this reference, and this Easement includes all of the rights and remedies set forth therein. In the event the Grantee exercises its right of enforcement as described in this Easement, Grantor shall be entitled to rights commensurate with Grantor's Right to Cure, as set forth in this paragraph 6A.

(i) Grantor is responsible for the acts and omissions of persons acting on its behalf, at its direction or with its permission, and the Grantee has the right to enforce this Easement against Grantor for any use of or activities upon the Property that are a violation of this Easement and that result from such acts or omissions. However, as to the acts or omissions of third parties other than those described in the preceding sentence, the Grantee does not have a right of enforcement against Grantor unless Grantor is complicit in said acts or omissions, fails to cooperate with the Grantee in all respects to halt or abate the event or circumstance of non-compliance with this Easement terms resulting from such acts or omissions, or fails to report such acts or omissions to the Grantee promptly upon learning of them.

(ii) The Grantee has the right, but not the obligation, to pursue all legal and equitable remedies provided under this Paragraph against any third party responsible for any activity or use of the Property that is a violation of this Easement and Grantor will, at the Grantee's option, assign its right of action against such third party to the Grantee,

join the Grantee in any suit or action against such third party, or appoint the Grantee its attorney in fact for the purpose of pursuing an enforcement suit or action against such third party.

B. Costs of Enforcement. Grantor will reimburse the Grantee for all reasonable expenses incurred by the Grantee in enforcing the terms of this Easement against Grantor, or with respect to actions by third parties for whom Grantor is responsible, as set forth in subparagraph (i) above, including, without limitation, reasonable attorneys' fees and any costs of restoration necessary to cure the violation. In addition, any costs of restoration will be borne by the Grantor if Grantor is determined to be responsible for damage to the Property. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by the Grantee.

C. Emergency Enforcement. If the Grantee reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values or to prevent breach or extinguishment of this Easement, the Grantee may pursue its remedies under this Easement without prior notice to Grantor and without waiting for the cure period to expire, provided however, Grantee will provide notice to Grantor at the earliest practicable time under the circumstances.

D. Waiver of Right to Enforce. The failure of the Grantee to discover a violation or to take action under this Easement will not be deemed or construed to be a waiver of the Grantee's rights under this Easement with respect to such violation in the event of any subsequent breach. In no event will any delay or omission by the Grantee in exercising any right or remedy constitute an impairment of or a waiver of such right or remedy. Grantor waives the defenses of prescription, laches and the running of any applicable statute of limitations.

E. Remedies Cumulative. No single or partial exercise of any right, power or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder and all remedies under this Easement may be exercised concurrently, independently or successively from time to time. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies which may be available at law or equity.

F. Acts Beyond the Grantor's Control. Nothing contained in this Easement will be construed to entitle the Grantee to bring any action against Grantor for, or to require the Grantee or Grantor to actively restore destruction of or damage to the Conservation Values resulting from, any injury to or change in the Property resulting from causes beyond Grantor's control, including trespass, fire, flood, storm, earth movement, and other natural disasters or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. This paragraph will not be construed to relieve the Grantor of the obligation to clean-up garbage or materials dumped on the Property by third parties and the obligation to make best efforts to prevent third party violations of this Easement, or to otherwise maintain the Property in a condition consistent with the purposes of this Easement.

G. Grantee's Obligations. After each inspection of the Property by Grantee, Grantee shall prepare a written monitoring report of the results of such inspection, including in particular any significant natural (or other) changes to the Property since the prior inspection. Grantee shall make a copy of such report available to Grantor prior to requiring or undertaking any remedial action. To the extent that Grantee by action or inaction does not perform or fulfill the preceding or any other affirmative, non-discretionary obligation required of Grantee pursuant to the terms of this Easement, then Grantor shall give written notice of such obligation to Grantee and the parties shall cooperate and act in good faith to reach a resolution with respect to such obligation.

7. REPRESENTATIONS AND WARRANTIES.

A. State of Title. Grantor represents and warrants that Grantor has good and marketable title to the Property, free and clear of any liens or encumbrances that might cause extinguishment of this Easement, or that would materially impair the Conservation Purposes.

B. Compliance with Laws. Grantor has not received notice of and has no knowledge of any material violation of any federal, state, county, or other governmental or quasi-governmental statute, ordinance, rule, regulation, law, or administrative or judicial order with respect to the Property.

C. No Litigation. Grantor represents and warrants that there is no action, suit, or proceeding that is pending or threatened against the Property or any portion thereof relating to or arising out of the Grantor's ownership or use of the Property, or any portion thereof, in any court or before or by any federal, state, county, or municipal department, commission, board, bureau, agency, or other governmental instrumentality.

D. Disclosure of Easement Information. Grantee has informed Grantor of the types and legal effects of conservation easements and has advised Grantor to obtain independent legal advice as required by Section 57-18-4 of the Utah Land Conservation Easement Act.

E. Authority To Execute Easement. The person or persons executing this Easement on behalf of the Grantee represent and warrant that the execution of this Easement has been duly authorized by the Grantee. The person or persons executing this Easement on behalf of Grantor represent and warrant that the execution of this Easement has been duly authorized by Grantor.

8. COSTS, LEGAL REQUIREMENTS, AND LIABILITIES. Grantor will be responsible for and will bear all costs and liabilities of any kind related to the Grantor's ownership, operation, upkeep, and maintenance of the Property and agrees that the Grantee will have no duty or responsibility for the operation or maintenance of the Property, the monitoring of hazardous conditions on the Property, or the protection of Grantor, the public, or any third parties from risks relating to conditions on the Property. Grantor agrees to pay before delinquency any and all real property taxes and assessments levied on the Property and agrees that the Grantor will keep the Grantee's interest in the Property free of any liens,

including those arising out of any work performed for, materials furnished to, or obligations incurred by Grantor. Grantor will be solely responsible for any costs related to the maintenance of general liability insurance covering Grantor's acts on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use by Grantor on the Property and permitted by this Easement, and any activity or use will be undertaken in accordance with all applicable federal, state, and local laws, rules, regulations, and requirements. If more than one person or entity constitutes Grantor, the obligations of each and all of them under this Easement will be joint and several.

9. RUNS WITH THE LAND. The terms and conditions of this Conservation Easement run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them, any and all of whom must comply with all terms and conditions of this Conservation Easement. This Conservation Easement burdens and runs with the Property in perpetuity.

10. SUBSEQUENT TRANSFERS AND SUBORDINATION. In conjunction with paragraph 21, Grantor agrees that the terms, conditions, restrictions, and purposes of this Easement or reference thereto will be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests either the fee simple title or a possessory interest (including, but not limited to, any leases) of the Property; and Grantor further agrees to notify the Grantee of any pending transfer at least forty-five (45) days in advance of the transfer. The failure of the Grantor to comply with this paragraph will not impair the validity of this Easement or limit its enforceability in any way. Any successor in interest of the Grantor, by acceptance of a deed, lease, or other document purporting to convey an interest in the Property, will be deemed to have consented to, reaffirmed, and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Easement. Notwithstanding the foregoing, if the Easement is extinguished in its entirety pursuant to judicial proceedings and in accordance with paragraph 14 of this Easement, the Grantor and any successor in interest of the Grantor shall not be bound by the terms and conditions of this paragraph 11.

11. INDEMNIFICATION.

A. Cross Indemnification. Notwithstanding any other provision of this Easement to the contrary, the Parties, shall indemnify, defend, and hold harmless each other, including, without limitation, each Party's managers, members, directors, trustees, officers, employees, agents, contractors, and their successors and assigns (collectively, the "Indemnified Parties"), from and against any costs, liabilities, penalties, damages, claims, or expenses (including reasonable attorneys' fees) and litigation costs that the Indemnified Parties may suffer or incur as a result of, or arising out of:

1. Use of or activities on the Property by the Party;
2. The inaccuracy of any representation or warranty made in this Easement by the Party;
3. Any material breach of this Easement by the Party;
4. Injury to or the death of any person, or damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, unless due solely to the actions of any of the Indemnified

Parties; and

5. Approvals for activities requested of a Party whether given or withheld under this Easement, except as the result of the gross negligence or intentional misconduct of the Party from whom approval was sought.

B. Grantor Indemnification. Grantor indemnifies, defends, and holds harmless the Grantee and its Indemnified Parties for:

1. Any claim, liability, damage, or expense suffered or incurred by or threatened against the Grantee by a third party and related to any approvals requested by Grantor, whether given or withheld by the Grantee, unless due solely to the Grantee's gross negligence or intentional misconduct; and

2. Any real property taxes, insurance, utilities, or assessments that are levied against the Property, including those for which exemption cannot be obtained, or any other costs of maintaining the Property.

C. Limitations on Indemnifications. Pursuant to the provisions of this paragraph 12, the Grantee is not indemnifying the Grantor against, and is not liable or responsible for, injuries or damage to persons or property in connection with the Grantee's administration or enforcement of this Agreement or with respect to the condition of the Property. The limitation in this sub-paragraph (C) does not absolve the Grantee of any liabilities it might otherwise have, independently of this Agreement, for wrongfully and directly, without the participation or consent of the Grantor, causing any dangerous condition to come into existence on the Property.

12. CHANGE OF CONDITIONS. In granting this Easement, Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may be used entirely for such prohibited uses in the future. It is the intent of Grantor and the Grantee that any such changes will not be deemed circumstances justifying the extinguishment of this Easement. In addition, the inability of Grantor, or Grantor's heirs, beneficiaries, successors or assigns, to conduct or implement any or all of the uses permitted under this Easement, or the unprofitability of doing so, will not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

13. EXTINGUISHMENT. The interests and rights under this Conservation Easement may only be extinguished or terminated with written approval of the Grantee. Pursuant to Notice 2023-30, Grantor and Grantee agree that, if a subsequent unexpected change in the conditions surrounding the Property renders impossible or impractical the continued use of the Property for the conservation purposes, the conservation purposes can nonetheless be treated as protected in perpetuity if (1) the restrictions imposed by the Conservation Easement are extinguished by judicial proceedings and (2) all of Grantee's portion of the proceeds (as determined by pursuant to Paragraph 16 below) from a subsequent sale or exchange of the Property are used by the Grantee in a manner

consistent with the conservation purposes of the original contribution. Each Party will promptly notify the other when it first learns of such circumstances. The amount of the proceeds to which the Grantee will be entitled from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, will be determined in accordance with paragraph 16 below. The Grantee will use all such proceeds in a manner consistent with the conservation purposes for the Grantor's charitable donation of the Easement. Due Summit County's interest in this Conservation Easement, any proposed extinguishment action that may affect the County's interest in the Property must be reviewed and approved by the County. In the event of extinguishment of the Easement in its entirety pursuant to this paragraph, the Property shall not be subject to any of the terms, conditions or restrictions of the Easement.

14. CONDEMNATION. If all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority, Grantor and the Grantee will join in appropriate actions 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 will be divided in accordance with the proportionate value of the Grantee's and Grantor's interests as of the Effective Date as set forth in Paragraph 16 below, it being expressly agreed that this Easement constitutes a compensable property right. All expenses incurred by Grantor and the Grantee in such action will be paid out of the recovered proceeds.

15. AMENDMENT. If circumstances arise under which an amendment to or modification of this Easement might be appropriate, the Grantee and Grantor may by mutual written agreement jointly amend this Easement, provided that no amendment will be made that will adversely affect the qualification of this Easement or the status of the Grantee as a qualified holder under any applicable laws, including the IRS Code or Utah statute. Any such amendment will be at the discretion of the Grantee; will be consistent with the preservation of the Conservation Values of the Property and the Conservation Purposes of this Easement; will not affect its perpetual duration or its qualification under any laws; will not permit any private inurement or impermissible private benefit to any person or entity, be based on an appraisal by an independent appraiser selected by Grantee and in accordance with rules and regulations governing charitable organizations qualified under Section 501(c)(3) of the IRS Code; will have a positive or not less than neutral conservation outcome, based on an evaluation of the impact on the Conservation Values by an independent person selected by Grantee; and will be consistent with the Grantee's internal policies and procedures regarding easement amendments as may be in effect at the time of the amendment proposal. Any such amendment will be recorded in the land records of Summit County, Utah. Grantor and Grantee agree that boundary line adjustments to the real property subject to the Easement may be made only pursuant to a judicial proceeding to resolve a bona fide dispute regarding a boundary line's location.

16. INTERACTION WITH STATE LAW. The provisions of the above paragraphs addressing EXTINGUISHMENT, CONDEMNATION, and AMENDMENT shall apply notwithstanding any provisions addressing such actions under Utah law.

17. WRITTEN NOTICE. Any written notice called for in this Easement will be delivered: (i) in person; or (ii) by certified mail, return receipt requested, postage prepaid; or (iii) by facsimile or e-mail with the original deposited with the United States Post office, postage prepaid on the same date as sent by facsimile; or (iv) by next-business-day delivery through a reputable

overnight courier that guarantees next-business-day delivery and provides a receipt. Notices must be addressed as follows:

To the Grantee:

To the Grantor:

Summit County  
60 North Main Street  
P.O. Box 128  
Coalville, UT 84017

Attn: Lands & Natural  
Resources Director

Any Party may, from time to time, by written notice to the other Parties, designate a different address that will be substituted for the relevant address or addresses set forth above. Notice is deemed to be given upon receipt.

18. INTERPRETATION.

A. Intent. It is the intent of this Easement to protect the Conservation Values in perpetuity by prohibiting and restricting specific uses of the Property, notwithstanding economic or other hardship or changes in circumstances or conditions. If any provision in this Easement is found to be ambiguous, an interpretation consistent with protection of the Conservation Values and Conservation Purposes is favored, regardless of any general rule of construction that may be to the contrary. In the event of any conflict between the provisions of this Easement and the provisions of any use and zoning restrictions of the State of Utah, the county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive conservation provisions will apply.

B. Governing Law. This Easement will be interpreted in accordance with the laws of the State of Utah and the United States.

C. Captions. The captions have been inserted solely for convenience of reference and are not part of this Easement and will have no effect upon construction or interpretation.

D. No Hazardous Materials Liability. Notwithstanding any other provision of

this Easement to the contrary, nothing in this Easement will be construed such that it creates in or gives to the Grantee: (a) the obligations or liabilities of an “Grantor” or “operator” as those words are defined and used in Environmental Laws (defined below), including, without limitation, (b) the obligations or liabilities of a person described in 42 USC Section 9607(a)(3); (c) the obligations of a responsible person under any applicable Environmental Law; (d) any obligation to investigate or remediate any Hazardous Materials associated with the Property; or (e) any control over Grantor’s ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

E. Merger. This Easement shall not be extinguished under the doctrine of merger. Notwithstanding the foregoing, prior to any occasion in which the Grantee takes legal title to Grantor’s interest in the Property, the Grantee must assign this Easement to another Qualified Organization within the meaning of Section 170(h)(3) of the Code, which organization has among its purposes the conservation and preservation of land and water areas.

F. Construction. The Parties acknowledge and agree that (a) each Party is of equal bargaining strength; (b) each Party has actively participated in the drafting, preparation and negotiation of this Easement; (c) each Party has consulted with its own independent counsel, and such other professional advisors as it has deemed appropriate, relating to any and all matters contemplated under this Easement; (d) each Party and its counsel and advisors have reviewed this Easement; (e) each Party has agreed to enter into this Easement following such review and the rendering of such advice; and (f) any rule of construction to the effect that ambiguities are to be resolved against the drafting Party do not apply in the interpretation of this Easement, or any portions hereof, or any amendments hereto.

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

H. Definitions.

- i. The term “IRS Code” means the Internal Revenue Code of 1986, as amended through the applicable date of reference.
- ii. The term “Development Rights” means and includes any and all legal rights under federal, state, and/or local laws, ordinances, rules or regulations now in effect or enacted after this date to develop and build structures, expressed as the maximum number of dwelling units per acre for residential parcels or square feet of gross floor area for nonresidential parcels, that could be permitted under applicable zoning and subdivision rules and regulations.

- iii. The terms “Grantor” and the “Grantee”, and any pronouns used in place thereof, mean and include, respectively, Grantor and Grantor’s personal representatives, trustees, beneficiaries, heirs, devisees, personal representatives, and assigns, and all other successors as their interest may appear and the Grantee and its successors and assigns.
- iv. The term “Notice 2023-30” means §605(d)(1) of the SECURE 2.0 Act of 2022 enacted as Division T of the Consolidated Appropriations Act, 2023, Public Law 117-328, 136 Stat. 4459.
- v. All references to the “IRS Regulations” means the Internal Revenue Service Treasury Regulations, 26 C.F.R. Ch. 1, §1.170A-14 as amended through the applicable date of reference.

19. RESTRICTIONS ON TRANSFER. Other than in the context of an extinguishment that complies with paragraph 14 of this Easement or a condemnation that complies with paragraph 15, this Easement may be transferred by Grantee, only with the consent of Grantor. The Easement shall only be transferred if (i) as a condition of the transfer, Grantee requires that the purposes of this Easement continue to be carried out; (ii) the transferee, at the time of transfer, qualifies under section 170(h) of the Code and section 57-18-3 of Utah’s statutes as an eligible donee to receive this Easement directly; and (iii) the transferee has the commitment and resources to enforce, and agrees to enforce this Easement. Grantee agrees to provide written notice to Grantor at least sixty (60) days prior to any intended transfer of this Easement. Any subsequent transfer of this Easement shall also be subject to the provisions of this paragraph. Any attempted transfer by Grantee of all or a portion of this Easement contrary to the terms hereof shall be invalid but shall not operate to extinguish this Easement.

20. SEVERABILITY AND ENFORCEABILITY. The terms and purposes of this Easement are intended to be perpetual. If any provision herein shall be held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party under this Easement will not be materially and adversely affected thereby, (a) such holding or action will be strictly construed; (b) such provision will be fully severable; (c) this Easement will be construed and enforced as if such provision had never comprised a part hereof; (d) the remaining provisions of this Easement will remain in full force and effect and will not be affected by the invalid or unenforceable provision or by its severance from this Easement; and (e) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Easement a legal, valid and enforceable provision as similar in terms to such illegal, invalid and unenforceable provision as may be possible.

21. EXHIBITS. Each exhibit referred to in, and attached to, this Easement is an integral part of this Easement and is incorporated in this Easement by this reference.

22. COUNTERPARTS. This Easement may be executed in one or more counterparts, all of which taken together will be considered one and the same agreement and each of which will

be deemed an original. This Easement may be recorded and become effective after each Party has received a counterpart signature page signed by all of the other Parties.

23. RECORDING; EFFECTIVE DATE. This Conservation Easement shall be effective (the "Effective Date") on the day and date it is delivered for recording to the Summit County Recorder's office, with a date-stamped copy retained as proof of timely delivery. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement, and Grantor agrees to execute any such instruments upon reasonable request.

24. ENTIRE AGREEMENT. This Easement, including the Exhibits attached hereto, sets forth the entire agreement and understanding of the Parties with respect to the transactions contemplated by this Easement and supersedes all prior arrangements, promises, communications, representations, warranties and understandings, whether oral or written, by any Party or any officer, employee, representative or agent of any Party with respect to the transactions contemplated by this Easement.

25. TO HAVE AND TO HOLD. This Easement hereunto the Grantee, and their successors and assigns forever.

*Signature Page Follows*

GRANTOR AND THE GRANTEE have executed this Conservation Easement as of the Effective Date.

GRANTOR:

Summit County, a political subdivision  
of the State of Utah

GRANTEE:

\_\_\_\_\_, a Utah  
nonprofit corporation

\_\_\_\_\_  
By: Shayne Scott  
Title: County Manager

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

State of \_\_\_\_\_)  
  §  
County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me personally appeared \_\_\_\_\_, the signer of the foregoing instrument, who proved on the basis of satisfactory evidence to be the person whose name is subscribed to the instrument and acknowledged to me he/she/they executed the same.

Witness my hand and official seal.

\_\_\_\_\_  
(notary signature)

**EXHIBIT A  
TO  
CONSERVATION EASEMENT**

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**LEGAL DESCRIPTION OF PROPERTY INCLUDING WATER RIGHT**

**EXHIBIT B TO  
CONSERVATION EASEMENT**

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**PROPERTY MAP**

**EXHIBIT B-1  
TO  
CONSERVATION EASEMENT**

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**BUILDING ENVELOPE**

**EXHIBIT C  
TO  
CONSERVATION EASEMENT**

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**PERMITTED AND RESTRICTED USES AND PRACTICES**

Any activities inconsistent with the purposes of this Easement are prohibited. The Property shall not be used for residential or commercial purposes except as permitted in this Exhibit C. Industrial uses are not permitted. The uses set forth in this Exhibit C detail specific activities that are permitted and prohibited under this Easement. The uses set forth in this Exhibit C are also intended to provide guidance in determining the consistency of other activities with the Conservation Purposes. Notwithstanding the uses set forth in this Exhibit C and, notwithstanding any provision of this Easement to the contrary, in no event will any of the permitted uses of the Property (whether set forth in this Exhibit C or elsewhere in this Easement) be conducted in a manner or to an extent that diminishes or impairs the Conservation Values or that otherwise violates this Easement.

1) FERTILIZERS, PESTICIDES, HERBICIDES, AND OTHER BIOCIDES.

The use of fertilizers, pesticides, herbicides and other biocides shall be limited. Organic and sustainable methods of fertilization, weed and pest control are preferred throughout the Property and Grantor shall use best practices for weed management. The use of fertilizers, pesticides, herbicides and other biocides is permitted in compliance with all applicable laws, rules, regulations and manufacturer's label instructions. Herbicides may be used on the Property only for the control of non-native noxious weeds, native invasive weeds that interfere with the uses of the Property, and other invasive exotic plant species and if conducted in compliance with all applicable laws, rules, regulations and manufacturer's label instructions. Use of herbicides for any other purpose must be approved the Grantee. Use of pesticides and biocides is prohibited unless approved by the Grantee. Use of biological weed and insect control agents may be permitted, subject to prior approval by the Grantee.

2) WATER RIGHTS. The Property subject to this easement includes the water right as described in Exhibit A of this Easement (the "Water Rights"). Owner shall not transfer, encumber, sell, lease or otherwise sever the Water Rights from the Property nor change the historic nature or use or place of use by change application, without the consent of the Grantee. The Water Rights shall be managed for conservation purposes that may include present or future agricultural production on the Property, improvement of wildlife habitat, and dedication of surplus water rights for in-stream flow to advance the conservation or enhancement of natural resources. Grantor shall not abandon or allow the abandonment of, by action or inaction, any of the Water Rights without the consent of the Grantee and if necessary, the Grantee may take any reasonable action necessary to prevent abandonment of Water Rights if the Grantor fails to act.

3) WATER RESOURCES. Existing surface and sub-surface water resources and facilities including ditches, drainage improvements, springs, pipes, ponds and troughs, as identified in the Baseline, may be maintained and improved, but new water resources and facilities may be constructed only upon prior written approval of the Grantee, which will not be unreasonably withheld.

4) STRUCTURES & IMPROVEMENTS. Subject to Section 22(c) of this Exhibit C, new buildings and other structures and improvements to be used for the Purpose of the Easement may be built on the Property within the Building Envelope described in Exhibit B-1 of this Easement. Grantor may construct one single-family home in said Building Envelope. Impervious surfaces will not exceed one percent (1%) 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, buildings 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 superior rights to those rights conveyed to Grantee by this Easement.

5) FENCING. 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 Easement and must comply with Wildlife Friendly best practices.

6) ROADS. New roads may be constructed if they are within impervious surface limits, approved in advance by the Grantee, and necessary to carry out allowed uses on the Property. Maintenance of existing roads as documented in the Baseline is allowed, however existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the allowed uses on the Property.

7) RECREATIONAL USES. Grantor may conduct recreational and educational activities that are both non-developed and non-consumptive if they do not negatively affect the Property and are consistent with the Conservation Purposes and Conservation Values including, but not limited to skiing, snowshoeing, bird watching, hiking, fishing, hunting, and picnicking.

8) HABITAT RESTORATION ACTIVITIES. Activities to restore or enhance native plant communities or terrestrial and aquatic wildlife habitat are permitted, provided such activities are consistent with the Conservation Values, purposes of this Easement, and any stewardship plans that exist from time to time.

9) SIGNS AND BILLBOARDS. . Billboards to advertise goods, services, events or causes unrelated to the Property are prohibited. Grantor may install signs related to activities or events conducted on the Property, to regulate or restrict activities in the recreational Climbing Area or to advertise activities occurring on the Property. Signs to sell or lease the Property are permitted. Grantee may install signs to indicate that the Property is protected by a Conservation Easement held by the Grantee.

10) FIRE SUPPRESSION. Grantor may remove brush and vegetation necessary to minimize the risk of wildfire on the Property. Potential means to reduce or remove high risk fuel loads include, but are not be limited to: mechanized methods; biological controls, including short-duration grazing; slash, stack and burn; and controlled burns. If Grantor determines that an area exceeding five (5) acres must be cleared to reduce the risk of fire, it will notify the Grantee of such action immediately following such clearing.

11) ENERGY PRODUCTION. Renewable energy production is allowed for the

purpose of generating energy for the operations and residential needs of the Property. Renewable energy sources must be built and maintained within impervious surface limits and consistent with the Purpose of the Easement.

12) USE OR TRANSFER OF DEVELOPMENT RIGHTS. Except as specifically permitted by this Exhibit C, the exercise of any Development Rights associated with the Property is prohibited, including, without limitation, the construction or placement of any residential or other buildings, roads or vehicle trails, golf courses, camping accommodations, mobile homes, house-trailers, permanent tent facilities, Quonset huts or similar structures, underground tanks, or billboards, signs, or other advertising, and/or other structures or improvements, street lights, utility structures or lines, overhead power transmission lines, sewer systems or lines. Except as allowed under this Exhibit C, all Development Rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property 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 bounded or described or to any other property adjacent or otherwise nor used for the purpose of calculating permissible lot yield of the Property or any other property.

13) NO HAZARDOUS MATERIALS. Use, dumping, storage, or other disposal of non-compostable refuse, trash, sewer sludge, unsightly or toxic materials, or Hazardous Materials is prohibited, except that fertilizers and herbicides permitted under Exhibit C may be used and stored on the Property, provided that all such use and storage is in compliance with applicable health, safety, and Environmental Laws and regulations and further provided that all such use and storage does not diminish or impair the Conservation Values.

14) 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. Permitted non-commercial activities to manage the forest include: (a) cutting of trees for the construction of permitted roads, utilities, buildings and structures; (b) cutting of trees for trail clearing; (c) cutting of trees for domestic use as firewood or other domestic uses by Grantor; (d) removal of trees posing an imminent hazard to the health or safety of persons or livestock, including dead or diseased trees; (e) cutting of trees for fire suppression purposes or for fire-prevention or (f) removal of invasive species.

15) DUMPING, WASTE, VEHICLES, EQUIPMENT AND STORAGE. Accumulation or dumping of trash, refuse, sewage, junk or toxic materials is not allowed on the Property. 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 on the Property, or the temporary storage of trash or waste generated in the normal course of permitted activities.

16) OFF ROAD VEHICLE USE. Use of off road vehicles as reasonably necessary for uses permitted by this Exhibit C are permitted. Recreational use of off-road vehicles is prohibited, including, but not limited to, the creation of a dirt-bike or moto-cross tracks.

17) UTILITIES. Granting or installation of new utility corridors serving land other than the Property is prohibited. Utilities to serve approved buildings or structures, including energy structures allowed under section 12 of this Exhibit C are permitted.

18) HUNTING AND TRAPPING. Hunting on the Property is permitted, in compliance with applicable laws and regulations. Grantor may choose to prohibit or limit hunting and may post the Property with signs stating that hunting and/or trapping is prohibited on the Property.

19) ALTERATION OF NATURAL WATER COURSES. Manipulation or alteration by Grantor of any natural water course, wetland, stream bank, shoreline, vernal pool or body of water existing on the Property shall be in accordance with federal, state and local government laws and regulations and requirements, including but not limited to permitting requirements of the Utah Division of Water Rights, Utah Division of Natural Resources and the United States Army Corps. of Engineers.

20) ACCESS. Nothing in this Easement shall be construed as affording the public access to any portion of the Property.

21) LIMITATIONS ON NON-AGRICULTURAL USES. Any activities inconsistent with the Purpose of the ALE are prohibited. The provisions of this Conservation Easement limit the types of agricultural operations that can occur on the Property to those that promote the Purpose of the ALE. The following activities are inconsistent with the Purpose of the ALE and are specifically prohibited, subject to the qualifications stated below:

A) SUBDIVISION: Separate conveyance of a portion of the Property or division or subdivision of the Property is prohibited.

B) INDUSTRIAL OR COMMERCIAL USES: Industrial or commercial activities on the Property are prohibited except for the following: (i) agricultural production and related uses in accordance with the terms and conditions of this Conservation Easement; (ii) the sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that the Grantee approves in writing as being consistent with the Purpose of the Easement and in accordance with the terms and conditions of this Conservation Easement; (iii) temporary or seasonal outdoor activities or events that do not harm the Purpose of the Easement; and (iv) commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, farm wineries, and small-scale retail enterprises compatible with agriculture or forestry including but not limited to cafes, shops, and studios for arts and crafts;

C) CONSTRUCTION ON THE PROPERTY: Except as otherwise permitted in this section, all structures and improvements must be located within Building Envelope containing approximately five (5) total acres and shown in Exhibit B-1 which is appended to and made part of this Conservation Easement.

Agricultural structures and utilities to serve approved buildings or structures, including on-farm energy structures allowed under section 12 of this Exhibit C and in this section C) that neither individually nor collectively have an adverse impact on the Purpose of the Easement, may be located outside of the Building Envelope with prior written approval of the Grantee. Existing buildings outside the Building Envelope, as described in the Baseline, may be maintained, and repaired but may not be replaced or enlarged.

New roads may be constructed if they are approved in advance by the Grantee, within impervious surface limits, and are necessary to carry out the agricultural operations or other allowed uses on the Property. Any new roads must be constructed in a location and manner that is consistent with the Purpose of the Easement and will not negatively impact the habitat, species, or sensitive natural resources identified for protection in the Baseline. Maintenance of existing roads as documented in the Baseline is allowed; however existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural uses or other allowed uses on the Property.

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 Easement and will not negatively impact the habitat, species, or sensitive natural resources identified for protection in the Baseline.

(D) GRANTING OF EASEMENTS FOR UTILITIES AND ROADS: The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the Purpose of the Easement as determined by the Grantee in consultation with the Grantor.

(E) SURFACE ALTERATION. 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 on the Property is prohibited, except for the following: (i) Dam construction pursuant to a plan approved by the Grantee to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation; (ii) Erosion and sediment control pursuant to a plan approved by the Grantee; (iii) Soil disturbance activities required in the construction of approved buildings, structures, roads and utilities provided that the required alteration has been approved in writing by the Grantee as being consistent with the Purpose of the Easement; and (iv) Grazing uses or grassland restoration and related conservation activities conducted in accordance with the terms and conditions of this Conservation Easement and the agricultural land easement plan described in section 23 of this Exhibit C.

(F) SURFACE AND SUBSURFACE MINERAL EXPLORATION AND EXTRACTION. Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of the Easement or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method from the Property is prohibited. If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this Easement is executed, and their interests have not been subordinated to this Easement, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph. Any mineral leases or other conveyances of minerals entered into or renewed after the date of this Easement are subordinate to the terms of this Easement and must incorporate by reference this Easement. Grantor may not consent to any such mining or extraction.

(G) CROP CULTIVATION. Except for grazing uses and grassland restoration and conservation, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial non-grassland agricultural product is prohibited.

22) LAND MANAGEMENT EASEMENT PLAN. The Grantor shall prepare a land management easement plan (the "Plan") in consultation with the Grantee. The Grantor agrees to update the Plan in consultation with the Grantee, in the event the uses or ownership of the Property changes. A copy of the current Plan is kept on file with the Grantor. The Plan shall include a recreational management plan that describes the recreation resource, the management system and practice that conserve, protect or enhance the viability of the land, and as applicable any habitat, species, or natural resources requirements, permissible and prohibited activities, and any associated restoration plans.

23) INCONSISTENT OR ADVERSE ACTIONS. Any action or practice that is inconsistent with the Conservation Purposes or that diminishes or impairs the Conservation Values is strictly prohibited.

**EXHIBIT D TO  
CONSERVATION EASEMENT**

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**ACKNOWLEDGMENT OF PROPERTY CONDITION**

In compliance with Section 1:170A-14(g)(5) of the federal tax regulations, the undersigned accepts and acknowledges that the \_\_\_\_\_ Conservation Easement Baseline Documentation Report is an accurate representation of the condition of the Property as of the Effective Date.

\_\_\_\_\_  
Grantor

Date \_\_\_\_\_

\_\_\_\_\_  
Grantee

Date \_\_\_\_\_