

DEED OF CONSERVATION EASEMENT LANGUAGE

TO THIRD PARTY GRANTEE
HAVING COLORADO PARKS AND WILDLIFE FUNDING

***(NOT INTENDED TO BE EXHAUSTIVE
OR A COMPLETE CONSERVATION EASEMENT)***

**This language or similar language acceptable to Colorado Parks and Wildlife (CPW) will
be utilized in the Conservation Easement**

**[If applicable, notice must be given here that federal funds and/or GOCO funds were used
in the acquisition, and in such cases, GOCO or federal review and approval of future land
use changes may be required. Notice as follows:]**

NOTICE: THIS CONSERVATION EASEMENT HAS BEEN ACQUIRED IN PART WITH A GRANT FROM THE COLORADO DIVISION OF PARKS AND WILDLIFE AND COLORADO PARKS AND WILDLIFE BOARD ("CPW"). THIS DEED OF CONSERVATION EASEMENT CONTAINS RESTRICTIONS ON THE USE AND DEVELOPMENT OF THE PROPERTY WHICH ARE INTENDED TO PROTECT ITS CONSERVATION VALUES. CPW HAS FOUND THAT THIS CONSERVATION EASEMENT PROVIDES BENEFITS THAT ARE IN THE PUBLIC INTEREST.

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement" or "Easement" or "Deed") is executed this _____ day of _____. This Conservation Easement is granted for the purpose of forever conserving the open space, scenic resources, agricultural productivity, wildlife habitat, and biological diversity of the _____ Property.

RECITALS

WHEREAS, the Property is an important part of the open space, agricultural land, and wildlife habitat in _____ County. The Property possesses significant open space, scenic qualities, agricultural productivity, wildlife habitat and biological diversity (collectively "Conservation Values") that are important to the Grantor, the people of _____ County and the people of Colorado.

WHEREAS, the Property provides relatively natural habitat to a variety of wildlife species.

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of the general land use patterns, including without limitation, those relating to ranching and farming activities existing at the time of the grant of this Conservation Easement and future farming and ranching activities that do not materially impair the Conservation Values of the Property.

The purpose of this Easement (“Purpose”) is to enable the Property to retain, in perpetuity, predominately its open space qualities, agricultural productivity, scenic qualities, wildlife habitat and biological diversity (“Conservation Values”) as evidenced by the Baseline Documentation Report described below, for conservation purposes and for agricultural purposes. This Easement is also intended to prevent any use of the Property which will materially impair or interfere with the Conservation Values.

In order to establish the present condition of the Property's relatively natural habitat, and its wildlife, scenic and open space resources, so as to be able to properly monitor future uses of the Property and assure compliance with the terms hereof, the parties have prepared a Baseline inventory of the Property's relevant features and conditions (the "Report"). The Report may include, but need not be limited to, aerial photographs, topographical maps, wildlife habitat and migration maps, measures of the quality of ground cover on grazing areas, maps indicating the extent of agricultural uses, and botanical and wildlife photographs and reports. The Report shall be completed by the time of closing and signed by all parties to the transaction. The parties hereto acknowledge and agree that in the event a controversy arises with respect to the nature and extent of Grantor's historical and present use or the physical condition of the Property subject to this Easement as of the date thereof, the parties shall not be foreclosed from utilizing all other relevant or material documents, surveys, reports, and other evidence to assist in the resolution of the controversy.

The Property shall be managed in accordance with a Management Plan, a final copy of which is attached hereto, and incorporated herein, and signed by Grantor, Grantee, and Colorado Parks and Wildlife (“CPW”). The Management Plan shall be reviewed at least every five (5) years and updated if the Grantor, Grantee, and CPW mutually agree that an update is necessary. The Management Plan is enforceable by Grantee and CPW pursuant to Paragraph _____ herein. Grantor and Grantee recognize that CPW has valuable expertise in the management of wildlife and wildlife habitat on the Property and therefore, the Management Plan shall not be updated or otherwise amended without CPW’s written approval.

Unless otherwise specified, no right of access to the general public to any portion of the Property is conveyed by this Conservation Easement.

Grantor intends that CPW have certain rights of inspection and enforcement, as provided for herein.

RIGHT OF ENTRY

The CPW has the right to enter upon the Property at reasonable times in order to evaluate compliance with the terms of this Deed; provided that such entry shall be upon prior reasonable notice to Grantor, which shall typically be no less than forty-eight (48) hours advance notice, and CPW shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

[Requirements to access and monitor the property (including water resources if applicable), in support of the conservation values identified for the property and consistent with the terms of the Conservation Easement, may vary considerably depending on, for example, overall management objectives and the wildlife species involved.]

CPW may reserve the right in the deed of Conservation Easement to monitor particularly sensitive wildlife populations and habitat. Monitoring protocols would be described in the Management Plan. The point would not be to duplicate a land trust's monitoring responsibilities and activities, but to bring CPW's expertise to bear in these sensitive wildlife situations, and only where and when needed to meet the agency's additional objectives and requirements.]

RIGHT OF ENFORCEMENT

Grantee shall have the right to prevent and correct or require correction of violations of the terms of this Deed. With reasonable advance notice to Grantor (except in the case of any ongoing or imminent violation, in which case such notice is not required), Grantee, Grantee's agents, or CPW may enter the Property for the purpose of inspecting for violations.

If Grantee finds what it believes is a violation, Grantee may at its discretion take appropriate legal action. Upon discovery of any such violation, Grantee shall immediately notify Grantor and CPW in writing of the alleged violation. Except when an ongoing or imminent violation is causing material damage to or could irreversibly diminish or impair the Conservation Values of the Property, Grantee shall give Grantor written notice of the violation and sixty (60) days to correct it, before filing any legal action. If the parties cannot resolve the violation themselves, the parties may mutually agree to an alternative method of dispute resolution, such as mediation. If a court with jurisdiction determines that a violation may exist or has occurred, Grantee may obtain an injunction to stop it, temporarily or permanently, in addition to such other relief as the court deems appropriate. A court may also issue an injunction requiring Grantor to restore the Property to its condition prior to the violation. In any case where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in stopping and correcting the violation, including but not limited to reasonable attorneys' fees. Any failure by Grantee to discover a violation or forbearance by the Grantee to exercise its rights under this Deed in the event of any breach of any term of this Deed by Grantor shall not be deemed or construed to be a waiver by Grantee of such term of any subsequent breach of the same or any other term of this Deed or of any of Grantee's rights under this Deed. No

delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy, or be construed as a waiver. The Grantor hereby waives any defense available to the Grantor pursuant to C.R.S. §38-41-119, or the defense of laches, estoppel, or prescription.

In addition to the above-described right of enforcement of Grantee, CPW shall also have the right to prevent and correct violations of the terms of this Deed as set forth herein.

Where CPW finds what it believes is a non-emergency violation that warrants enforcement, CPW shall notify the Grantee in writing of the nature of the alleged violation. Within thirty (30) days of receipt of this written notice, the Grantee shall advise CPW in writing whether or not the Grantee intends to undertake enforcement against the Grantor concerning the alleged violation. If the Grantee fails to so advise CPW in writing within said thirty (30) days, or if the Grantee advises CPW in writing that it does not intend to undertake enforcement, then CPW may directly notify Grantor in writing of the nature of the alleged violation, and shall provide a copy of the notice to the Grantee at the same time. Grantor shall have 60 days to correct the violation. If such violation is not corrected, then CPW may proceed with a legal action in accordance with the same terms and conditions applicable to enforcement by the Grantee.

When the CPW finds what it believes is an ongoing or imminent violation that is causing material damage to or could irreversibly diminish or impair the Conservation Values of the Property, CPW may take immediate legal action to address the emergency situation, after having given notice to Grantee.

[Note: If federal funds were involved in the purchase of the conservation easement, then failure to comply with the terms of the conservation easement may lead to a determination by the US Fish and Wildlife Service that the CPW had lost “control” of the acquisition (i.e.; it is no longer serving the purpose for which it was acquired), and therefore The US Fish and Wildlife Service would look to the CPW for reimbursement of funds or to provide a suitable replacement property. In this event, CPW may seek repayment from the Grantor and the Grantee.]