

[SAMPLE DEED OF CONSERVATION EASEMENT LANGUAGE

FOR CONSERVATION EASEMENTS TO BE HELD BY

COLORADO PARKS AND WILDLIFE

(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]**

**STATE OF COLORADO
acting by and through the
Department of Natural Resources,
for the use and benefit of the Division of Parks and Wildlife
and the Parks and Wildlife Commission**

CONSERVATION EASEMENT IN GROSS

**Granted by
Insert Grantor's Full Legal Name**

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This Deed of Conservation Easement in Gross (“CE”) is granted by Insert Grantor's Name (“Grantor”), whose address is _____, to the State of Colorado acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission (the “State” or “CPW” or “Grantee”), located at 1313 Sherman Street, Denver, Colorado, 80203. This CE shall be effective and

enforceable upon completion of Closing (as defined below), after which Grantor and the State shall be bound by the provisions set forth in this CE (the “Effective Date”).

RECITALS

Whereas authority to enter into this CE exists pursuant to CRS §33-1-104, §33-1-105, and §33-10-107 as amended by Senate Bill 11-208 and §38-30.5-102; sufficient funds have been budgeted, appropriated, and paid; and all prior reviews and approvals have been obtained. The State is a governmental entity qualified to hold this CE under CRS §38-30.5-101 et seq., which provides for conservation easements to retain or maintain land, water, airspace, or water rights, predominantly in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest, or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity.

Whereas Grantor intends to grant, transfer, and convey to the State a perpetual right to preserve and protect the Conservation Values (as defined below) of the Property (as defined below) and therefore this CE prohibits, and the Parties shall not engage in, any uses that would diminish or impair the Conservation Values or that otherwise would be inconsistent with the purposes of this CE.

Whereas this CE supports the legislative policies, purposes, and uses enumerated in CRS §33-1-104, §33-1-105, and §33-10-107 as amended by Senate Bill 11-208 and §38-30.5-102 as the Property possesses some or all of the values and characteristics listed herein, which are important to the Parties, the residents of the surrounding area, and the people of the State of Colorado and which values shall be herein referred to as “Conservation Values.” In particular, the Property currently possesses the following:

i. Wildlife Habitat

Insert specific language here

ii. Connectivity

Connectivity with abutting land owned by the State or other public entities or land trusts, with land adjacent to the State’s upon which the State holds a conservation and/or public access easement in the immediate vicinity of the Property.

Whereas the following attachments and exhibits are attached hereto and incorporated by reference herein: **EXHIBIT A** (Property Legal Description), **EXHIBIT B** (Property Map), **EXHIBIT C** (Title Exceptions), **EXHIBIT D** (Water Rights), and **EXHIBIT E** (Management Plan).

Now Therefore, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration paid in this or related transactions, the receipt of which is hereby acknowledged as sufficient and adequate to support the granting of this CE, and pursuant to CRS §38-30.5-101, et seq. and with all additional rights and interests provided under common law, by this CE Grantor hereby grants, conveys, and transfers to the State, and the State accepts, a perpetual conservation easement in gross over

the Property and the Water Rights that runs with the land and which constitutes a real property interest immediately vested in the State. The term “conservation easement in gross” is used as defined in CRS §38-30.5-101, et seq. and the common law doctrine that non-adjointing easements are personal interests shall not apply whether or not the State has any real property adjoining the Property. The nature, character, and extent of the conservation easement in gross and the real property interests conveyed herein are further set forth in this CE.

1. DEFINITIONS

The following terms as used herein shall mean and be construed and interpreted as follows:

A. Access Easement

“Access Easement” means that document granting to the State and the public over the Property and granted by Grantor contemporaneously herewith.

B. Baseline Report

“Baseline Report” means the written report, incorporated by reference herein, approved and signed by the Parties, that documents the condition of the Property as of the Effective Date.

C. Building Envelope(s)

“Building Envelope(s)” is that area described or depicted on **EXHIBIT B** for which Grantor retains the right, subject to all applicable laws and regulations, to construct improvements as allowed under and limited by the applicable subsection(s) of this CE.

D. CE

“CE” means this Conservation Easement in Gross, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this CE, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, State Fiscal Rules, and State Controller Policies.

E. Closing and Closing Date

“Closing” means the date the purchase and sale contract (or other agreement) by and between Grantor and the State related to the Property and Water Rights, if any, is closed and on which all related documents, which include this CE and an Access Easement, are contemporaneously executed, and “Closing Date” is the date on which the Closing occurs.

F. Conservation Values

“Conservation Values” means those values and characteristics defined as “Conservation Values” in the Recitals above.

G. CRS

“CRS” means the Colorado Revised Statutes as amended.

H. GOCO

“GOCO” means the State Board of the Great Outdoors Colorado Trust Fund.

I. Management Plan

“Management Plan” means the plan, and any amendments thereto, detailing ongoing management of the Property and Water Rights, if any, set forth in **EXHIBIT E**.

J. Party and Parties

“Party” means the State or Grantor and “Parties” means both the State and Grantor.

K. Property

“Property” is the real property described in **EXHIBIT A** and depicted for illustrative purposes only in **EXHIBIT B** and includes all land, improvements, and fixtures together with all Grantor’s right, title and interest in all easements, rights of way, and appurtenant rights, and other interests therein. The Property includes the surface thereof, the subsurface below the Property to the center of the earth, and the airspace from the surface extending 100 miles above the Property.

L. Water Rights

“Water Rights” means all of Grantor’s rights, title and interests in any and all water and water rights of any kind or nature historically used, or decreed or permitted for use, on the Property. “Water Rights” includes all surface water rights and groundwater rights (tributary, nontributary, not nontributary and designated basin), whether such rights are decreed, undecreed or permitted, together with all canals, ditches, laterals, pipelines, water collection systems, headgates, water wells, ponds, reservoirs, springs, water allotments, water shares and stock certificates, water contracts and leases, units, permits, easements and rights of way, including, but not limited to, those Water Rights described in **EXHIBIT D**.

2. TERM AND TERMINATION

A. Perpetual Term-Recording

This CE shall commence on the Effective Date and shall continue in perpetuity. This CE shall be promptly recorded in the official records of each county in which the Property is situated following Closing, and the State may re-record it and any amendments hereto at any time as may be required to preserve its rights in this CE.

B. Additional Recording Requirements for Water Rights (if any)

If the point of diversion for any of the Water Rights is located in a county other than where the Property is located, the CE shall also be recorded in such county. Furthermore, if the Water Rights include shares in mutual ditch or reservoir companies, Grantor shall promptly submit the related stock certificate(s) to the appropriate ditch or reservoir company for inclusion of the following notation thereon: “These shares are subject to the terms and restrictions set forth in the Deed of Conservation Easement in Gross from [insert Grantor’s name] to the State of Colorado acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission, recorded in the Real Property Records of _____ County, Colorado on Month day, 20__ at Reception No. _____” following Closing. Grantor shall provide a copy of the stock certificate(s) to the State prior to or at Closing.

C. Termination

This CE may only be terminated or extinguished, in whole or in part, by order of a court of competent jurisdiction in accordance with State and/or federal laws. This Conservation Easement’s validity is not impaired, nor shall it be considered grounds to be subject to termination or extinguishment, **(i)** under theories of abandonment, **(ii)** for failure of the State to enforce this CE in whole or part, **(iii)** for changes in the potential economic value of any use that is prohibited by or inconsistent with this CE, **(iv)** for changes in any current or future uses of neighboring properties, **(v)** for the inability of the Grantor or Grantor’s heirs, successors or assigns to use the Property as permitted by this CE, or the

unprofitability of doing so, (vi) due to the repeal or amendment of Section 38-30.5-101 et seq., (vii) for the disappearance of any species/specimens from the Property, or (viii) for the scientific or legal conclusion that such species is extinct.

3. PERMITTED USES AND ACTIVITIES

Grantor, at its sole expense, may engage in or allow the following uses of the Property and activities reasonably incidental thereto, provided they are consistent with the purpose of this CE, do not change, disturb, alter, diminish, or impair the Conservation Values and are in accordance with the Management Plan.

A. Accessory Structures

To build, renovate, remodel, and use minor accessory structures necessary for agricultural, ranching, recreational, and hunting and fishing uses allowed under this CE; provided however, that such structures shall not be used as temporary or permanent residences.

B. Building Envelope

Grantor may construct the following improvements in the Building Envelope(s):

C. Fences

Grantor may maintain, repair and replace existing fences, but shall endeavor to ensure that such can be crossed by elk, deer, and other big-game wildlife. Construction of new fences is not allowed unless approved in advance by the State. In no event shall sheep-tight or woven wire fencing be used for fences or to repair or reconstruct existing fences.

D. General Public Use

Grantor may permit use of the Property by the general public for open space, environmental education, and non-commercial, outdoor recreational activities, excluding sports facilities and recreation centers. Grantor may exclude any member of the general public from accessing or trespassing on the Property.

E. Grazing

Grazing sheep, cattle, or other animals, but only as provided for in the Management Plan.

F. Hunting and Fishing

To the extent Grantor has not otherwise granted the right to control hunting, fishing, trapping or predator control activities to the State in whole or part, Grantor may allow third parties to engage in such activities, including the right to permit or allow commercial operations.

G. Noxious Weeds

Grantor may control noxious weeds (undesirable plant species designated as such under CRS §§35-5.5-101, et. seq.) on the Property by chemical, biological, and mechanical means. This right shall not include the right to conduct aerial herbicide or aerial insecticide spraying operations on the Property.

H. Range Management and Ranching Activities

Grantor may use the Property for common or typical ranching activities including grazing, feeding, breeding, raising and managing livestock. Traditional livestock excludes Game Farm Animals. Game Farm Animals means those animals which are regulated or prohibited pursuant to CRS §33-1-121 et seq. and §33-4-102 (2)(f) et seq. and includes: (i) penned, enclosed, or privately-owned caribou, black bear, grizzly bear, mountain lion, white-tail deer, black-tail deer, coues deer, elk, moose, antelope, mountain

sheep, mountain goat, red deer, **(ii)** any other cloven-hooved ungulate which is indigenous to Colorado, and **(iii)** any non-indigenous or exotic cloven-hooved ungulate which could interbreed with or spread disease to any cloven-hooved ungulate indigenous to Colorado. However, Game Farm Animals do not include “traditional” domestic livestock including domestic cattle, domestic sheep, domestic goats, domestic pigs, and domestic llamas.

I. Roads

Grantor may maintain existing roads on the Property so long as no previously unpaved roads are paved.

J. Utility Systems

Grantor may construct and use utility systems provided the energy produced by such utility systems is primarily used for those activities permitted by this CE on the Property and is not primarily for commercial purposes. Any energy generated on the Property pursuant to this provision, which exceeds Grantor’s energy consumption may be sold, conveyed, or credited. Any areas disturbed as a result of any utility construction shall be revegetated and restored to a natural condition with native vegetation as soon as is practicably possible after completion; provided, however, if such disturbed area is under cultivation as permitted by this CE, then revegetation and restoration shall be done to restore such disturbed area to its condition immediately prior to such disturbance.

4. PROHIBITED AND RESTRICTED USES AND ACTIVITIES

Without limiting the generality of the foregoing, the following activities are prohibited and restricted, except as expressly allowed in this CE or the Management Plan, or with prior written approval from the State which shall not be granted if inconsistent with the Conservation Values:

A. Activities which would Diminish Conservation Values

Any uses or activities on the Property that would change, disturb, alter, diminish or impair the Conservation Values, or that would be inconsistent with the purposes of this CE.

B. Agriculture

Farming, plowing, or any type of cultivation.

C. Aircraft Facilities

Constructing or erecting any aircraft facilities or aircraft landing facilities.

D. Buildings, Structures, and Improvements

Constructing, placing or erecting any new residential, commercial, or recreational buildings, structures or other improvements, including without limitation trailers, permanent camping accommodations or tent facilities, Quonset huts, mobile homes, storage sheds, enclosures of any sort, and structures in excess of 35 feet tall.

E. Commercial or Industrial Activities

Commercial and industrial activities.

F. Easements

Granting further easements burdening the Property for any purpose.

G. Feedlot

Establishing or operating any feedlot, which is a permanently constructed confined area or facility that is used for the purpose of engaging in the business of receiving and feeding livestock.

H. Filling, Excavating, or Dredging

Filling, excavating, altering or dredging the surface of the Property or any watercourse, waterbody, or wetland on the Property.

I. Game Farming or Game Animals

Constructing, conducting, or operating a game farm or raising or holding Game Farm Animals or alternative livestock.

J. Leasing

Leasing of the Property or Water Rights to any third parties for any uses with the exception of the following: . Grantor shall notify any lessee of the limitations on the use of the Property and Water Rights, if any, contained in this CE and the Management Plan.

K. Noxious, Invasive, non-Native, and Detrimental Species

Introducing any plant or animal species designated by local, State or federal agencies as noxious, invasive, non-native, or detrimental to wildlife.

L. Paving and Trail Construction

Creating or paving roads or trails.

M. Recreational Activities

Developing and using facilities for intensive recreational activities that concentrate people in a relatively confined area for significant periods of time. Examples include, but are not limited to, field trails, athletic fields, golf courses or ranges, group playgrounds, bicycle trails, group picnic facilities, campgrounds, and outdoor amphitheaters.

N. Roads

Building, constructing, or developing any new roads, bridges, trails, or parking lots.

O. Storage

Storage, except of materials reasonably necessary to facilitate uses permitted under this CE.

P. Subdivision

Dividing, subdividing, partitioning, or de facto subdividing the Property into two or more parcels or interests in common, or any attempt at the same. Grantor further waives any contractual, statutory or common law right to partition the Property or any portion thereof into separate or distinct parcels.

Q. Trash, Waste, and Hazardous Materials

Disposing, dumping, discarding, leaving, abandoning, accumulating, treating, reclaiming, recycling, storing, abandoning, or otherwise depositing any waste-like materials, pollutants, contaminants, hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended “CERCLA”), hazardous or otherwise, including but not necessarily limited to trash, litter, garbage, junk, or solid or liquid agricultural or non-agricultural wastes.

R. Utilities

Building or installing any new above ground public or private utilities, including but not limited to electrical transmission lines, wind turbine towers, antennas, radio, telephone, and television telecommunication towers.

S. Vegetation

Cutting, removing, or unnecessarily damaging any vegetation or woody plants. This prohibition shall not restrict Grantor's right to cut and remove from the Property (i) dead, diseased or downed shrubs and trees that present a fire and/or safety hazard or obstruction; (ii) invasive non-native species; (iii) trees and shrubs that interfere with fencing or ditches; and (iv) any additional vegetation as provided for under the Management Plan.

T. Vehicles

Use of motorized vehicles other than on existing roads and as used for agricultural, property management or animal retrieval.

U. Filling, Excavating, or Dredging

Filling, excavating, or dredging the surface of the Property or any watercourse, waterbody, or wetland on the Property.

U. Utility Systems

Constructing or installing any new above-ground public or private utilities, including but not limited to transmission lines, antennas, radio, telephone, television, telecommunication towers, and wind, solar, geothermal, and hydro energy production systems; construction of a commercial energy production facility.

5. WATER RIGHTS

A. Encumbered Water Rights

The Water Rights encumbered by this CE are defined in §1.L.

B. Allowable Water Uses

The Water Rights are hereby dedicated to and restricted for uses benefiting the Conservation Values. The recent historical use of the Water Rights documented in the Baseline Report shall continue provided such uses are allowable under applicable decrees or permits. Grantor may, on occasion and as permitted under CRS §37-83-105, temporarily loan one or more of the Water Rights to the Colorado Water Conservation Board for instream flow purposes; provided that such loan must be approved in writing in advance by the State. Absent prior written approval from the State allowing otherwise, Grantor shall, at Grantor's expense, maintain, repair, and if destroyed, reconstruct any existing facilities and infrastructure related to the Water Rights (such as ditches, pipelines, headgates, wells, and reservoirs).

C. Restrictions on Water Rights

Grantor shall not use or develop the Water Rights in any manner that would change, disturb, alter, diminish or impair the Conservation Values, or that otherwise would be inconsistent with the purposes of this CE. Any activities not expressly allowed under §5.B are prohibited, absent prior written approval by the State. Such activities include, but are not limited to, the following:

i. Changing Water Rights

- a. Changing the Water Rights to, or use of the Water Rights for, municipal, industrial, commercial, or any other new uses; and/or
- b. Changing the Water Rights for use other than on the Property; and/or
- c. Changing the points of diversion, type of use, or place of use of the Water Rights inside or outside of the Property;

ii. Construction

Constructing, or allowing others to construct, any new diversion, conveyance, storage, or other water structures upon the Property.

iii. New Water Rights

Initiating the appropriation of any new absolute or conditional water rights for use on the Property.

iv. Sale or Leasing

Selling or leasing the Water Rights, encumbering them separately from the Property or otherwise legally separating them from the Property.

D. Protection of Water Rights from Abandonment

Grantor shall not abandon or allow abandonment of any of the Water Rights by action or inaction. If any of the Water Rights appear on the decennial abandonment list or the State otherwise determines that one or more of the Water Rights is subject to the threat of abandonment, the State shall notify Grantor in writing of such threat and shall meet with Grantor to discuss the matter. If Grantor fails to cure the threat of abandonment within 90 days of receiving such notice from the State, the State shall, in addition to any other remedies available to the State under this CE or at law, have the right to:

i. Entry

Enter upon the Property and undertake any and all actions reasonably necessary to continue the historical use of the Water Right(s) at issue, if desired by the State; and

ii. Decennial Abandonment List

Seek removal of the Water Right(s) at issue from the decennial abandonment list.

E. Measurement and Reporting

If the State or Division Engineer issue valid orders pursuant to CRS §37-92-502(5)(a), Grantor is responsible for installing and maintaining and paying for any necessary meters, gauges, or other measuring devices which may be directly or indirectly required under such order, and for reporting at reasonable times to the appropriate Division Engineer any readings required under such order. Whether or not CPW is named in the order, Grantor shall be solely responsible for such installation, maintenance, and reporting. Grantor shall provide to the State copies of any reports submitted by Grantor to the Colorado Division of Water Resources and shall, annually before December 1, provide to the State copies of any other records of use made by Grantor related to the Water Rights.

F. Written or Posted Notifications from the Colorado Division of Water Resources

Grantor shall promptly provide the State a copy of any written notice received from, or posted on the Property by, the Colorado Division of Water Resources concerning the measurement, use, or possible abandonment of any of the Water Rights.

G. Change of Conditions

Grantor expressly waives any claim to use, change or transfer all or any part of the Water Rights other than as provided in this CE, regardless of any future change in circumstances, change in values, or other reason, based on any theory of reasonable accommodation or other theory that would release any or all of the Water Rights from the provisions of this CE without the State's prior written consent, which can be granted, withheld or conditioned in the State's sole discretion.

6. MINING AND MINERAL DEVELOPMENT

Subject to valid rights of third parties existing as of the Effective Date, all mining and mineral development, including, but not limited to, extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited. With respect to any mineral rights not currently owned by Grantor, Grantor irrevocably assigns and grants to the State the same legal rights as Grantor to influence and control impacts to the surface of the Property from mineral development. Such rights shall include, but not be limited to, the unilateral right to take whatever legal action the State deems necessary in order to respond to proposals to develop oil, gas, and other minerals from beneath the Property, including bringing judicial or administrative actions. Neither Grantor nor the State shall unilaterally enter into an agreement with a third party regarding any oil, gas, and mineral development of the Property and both shall be required parties to any such agreement. Grantor shall give written notice to the State in accordance with §13 any time Grantor is contacted, either formally or informally, by a third party regarding possible mineral development on or under the Property. Said notice shall be given to the State as soon as practical, but not later than 10 days after the occurrence of the contact, and shall describe all material aspects of the contact, including, but not limited to, the identity of the third party and the nature of the contact. The failure of Grantor to provide such notice shall not impair the validity of this §6 or other provisions of this CE.

7. PUBLIC ACCESS

Access to the Property by the general public and the State shall be permitted only in accordance with the provisions of the Access Easement entered into contemporaneously herewith. Nothing contained in this CE shall be construed as affording the general public access to any portion of the Property.

8. MANAGEMENT PLAN

In order to protect and further the Conservation Values, Grantor and the State have established best management practices and developed a Management Plan for the Property and Water Rights. Both Parties shall keep a copy of the Management Plan and comply with its provisions. Any conflict between the provisions of this CE and those of the Management Plan shall be resolved in favor of the CE. The Parties shall review and may modify the Management Plan in accordance with its terms. Any subsequent modifications to the Management Plan shall not require a formal amendment to this CE; however, they shall conform to the provisions of this CE.

9. ENFORCEMENT AND MONITORING-BASELINE REPORT

In order to preserve and protect the Conservation Values and ensure compliance with the provisions of this CE and the Management Plan, the State shall have the right to enter

upon all parts of the Property by foot or motorized vehicle, from time to time in order to ensure compliance with the terms of this CE, including, without limitation, an annual monitoring and photographing visit. The State, in its sole discretion, may periodically inspect the Property to document use of the Water Rights and the condition of all diversion, conveyance and storage structures. The State may prevent or enjoin Grantor from conducting any activities or uses of the Property or Water Rights that would diminish or impair the Conservation Values or that otherwise would be inconsistent with the purposes of this CE. In addition, the State may, independently or preferably in cooperation with Grantor, prevent or enjoin any third parties (whether or not the third parties were authorized by Grantor to access the Property) from conducting any activities or uses of the Property or Water Rights that would diminish or impair the Conservation Values or that otherwise would be inconsistent with the purposes of this CE. Grantor shall assist the State in any actions taken against third parties. A copy of the Baseline Report is on file with both Parties. If after Closing, a controversy arises with respect to either the condition of the Property or Water Rights, or compliance with or violation of any provision of this CE, then the Parties may use the Baseline Report and any other evidence to assist in resolving the disagreement in any informal or formal proceeding.

10. GRANTOR'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS

Grantor agrees to the following obligations and makes the following specific representations and warranties, each of which was relied on by the State in purchasing this CE.

A. Covenants of Title

Grantor, for Grantor and Grantor's heirs, assigns, successors, and personal representatives, does covenant and agree to and with the State and its assigns that as of the Effective Date, Grantor is well seized of the Property, and the Water Rights, has good and absolute title, in fee simple, and has good right, full power, and lawful authority to grant, bargain, sell, and convey the interest in the Property and Water Rights created in this CE in the manner and form provided for in this CE, and that the Property and Water Rights are free and clear from all liens, taxes, assessments, encumbrances, reservations, rights-of-way, and restrictions, except those listed in **EXHIBIT C**. Grantor shall and will warrant and forever defend the interests in the Property and Water Rights created in this CE in the quiet and peaceable possession and rights of the State and its assigns, against all and every person(s) or entity whose lawful claim to the whole or any part of the Property and Water Rights would affect the Conservation Values, the validity or perpetual nature of this CE, or diminish the value of this CE.

B. Hazardous Substances

Grantor does not know of, or have any reason to believe, any "Hazardous Substance," as defined in §42 U.S.C. 9601(14), or pollutant, contaminant, hazardous or toxic material, substance, or waste, as they may be defined under relevant Federal, State or local law, or asbestos, is located on the Property and Grantor has not received notice of any violation or alleged violation of any law, rule, or regulation regarding such substances. The conveyance of this CE from Grantor to the State is not intended to relieve Grantor of any obligation or liability Grantor would incur under relevant federal or State law concerning such substances as an owner of the Property. In particular, the provisions of this CE shall not be interpreted to make the State an "owner of" or "responsible party for" the Property for purposes of any federal or State environmental law or regulation, including, but not

limited to, CERCLA. Grantor shall make the foregoing representation in a separate writing deliverable to the State upon request by the State.

C. Legal Authority–Grantor Signatory

Grantor possesses the legal authority to enter into this CE and, if not a natural person, Grantor has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, to lawfully authorize its undersigned signatory to execute this CE, and to bind Grantor to its terms. If requested by the State, Grantor shall provide the State with proof of Grantor’s authority to enter into this CE within 15 days of receiving such request. Grantor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process in accordance with regulations and procedures established by the Colorado Secretary of State.

D. Notification of Litigation

In addition to any other notification obligations Grantor has under this CE, Grantor has an affirmative obligation to notify the State about litigation. Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this CE or which may affect Grantor’s ability to perform its obligations hereunder, Grantor shall notify the State of such action and deliver copies of such pleadings to the State’s principal representative as identified herein.

E. Preservation, Restoration, and Maintenance Costs

Grantor intends that the Conservation Values of the Property be preserved and protected in perpetuity and Grantor shall not engage in nor permit third parties to engage in any uses or activities that would diminish or impair the Conservation Values or that otherwise would be inconsistent with the purposes of this CE. Grantor shall maintain the Property in good condition and in a manner consistent with the Conservation Values. Grantor shall bear all costs and liabilities of any kind related to the ownership, restoration, operation, upkeep, and maintenance of the Property, including weed control and eradication.

11. STATE INTEREST AND RIGHTS

This CE constitutes a real property interest immediately vested in the State, and the State shall have attendant interests and rights, including the following:

A. Development Rights and Subdivision

Grantor conveys to the State all present and future development rights deriving from, based upon, related to, or attributable to the Property in any way except those expressly reserved to Grantor in this CE, and such rights shall be held by the State in perpetuity to fulfill the purposes of this CE, and to ensure such rights are forever released, terminated, and extinguished as to Grantor, and may not be used on or transferred off of the Property to any other property adjacent or otherwise or used for the purpose of calculating permissible development uses of the Property or any other property.

B. Joint Interest of Grantor and the State

Grantor shall provide the State notice of any conveyance of interest in all or any portion of the Property or Water Rights, including, but not limited to, leases, surface use agreements, damage agreements, rights-of-way, and access agreements. Such notice shall be provided to the State not less than 45 days prior to the date of such transfer. The State

shall have the right to join Grantor as a necessary party to any such conveyances that may be proposed or granted by Grantor or ordered by any governmental entity or judicial body.

12. VIOLATIONS-REMEDIES-RESOLUTION METHODS

A. Defined

In addition to any violations specified in other sections of this CE, the failure of Grantor to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a violation of this CE.

B. Notice

The State shall send Grantor a notice detailing alleged violations of this CE in the manner provided in **§13**. Upon receipt thereof, Grantor shall immediately cease and desist from any use or activity that could increase or expand the alleged violations until they are finally resolved by agreement of the Parties or by decree of a court of competent jurisdiction and shall further immediately send the State in the manner provided in **§13** a response agreeing with the State or denying the alleged violations in whole or in part.

C. Remedies

The State shall have all remedies available to it in law and in equity, such as actions for damages and injunctive relief, including, but not limited to, those set forth in CRS §38-30.5-108. The Parties shall resolve violations as follows:

i. Agreement

If Grantor agrees with or does not dispute the State's assertion regarding the alleged violations, Grantor shall, at its sole cost, restore the Property to its condition prior to the violations and take such other action as may be reasonable or necessary to eliminate the violations and prevent their further occurrence and shall provide the State with details of its remediation plan together with a reasonably prompt time for completion thereof. The State may enforce such remediation plan via proceedings at law or in equity if Grantor fails to perform it in accordance with its terms.

ii. Dispute Meeting

If Grantor disagrees with and disputes, in whole or in part, the State's assertion regarding the alleged violations, Grantor shall provide the State with a written explanation of Grantor's dispute and stating why the use or activity should be permitted. Thereafter, representatives of the Parties shall meet as soon as possible, but not later than 60 days after the State's receipt of Grantor's response, to resolve the issues. If the Parties reach agreement, they shall create a remediation plan together with a reasonably prompt time for completion thereof. The State may enforce such remediation plan via proceedings at law or in equity if Grantor fails to perform it in accordance with its terms.

iii. Legal Proceedings

The State may, in its sole discretion, exercise any or all remedies available at law or in equity, including those available at common law, concurrently or consecutively, to enforce its rights hereunder if any meeting pursuant to **§12.C.i or ii** fails to resolve any issues and to otherwise enforce its rights hereunder, including enforcing remedial plans created under **§12.C.i or ii**. Courts are specifically authorized to issue both

mandatory and negative injunctions, including one requiring restoration of the Property to its condition before a violation occurred.

iv. Irreparable Harm

If, in the State’s opinion, an ongoing or imminent violation could irreparably diminish or impair the Conservation Values of the Property, the State may, at its discretion, take appropriate legal action without resorting first to a meeting of the Parties, including, as may be necessary, seeking a temporary restraining order.

v. Costs

Grantor shall be solely responsible for the costs of remedying any violations of this CE caused by Grantor or by any third parties authorized by Grantor to access the Property, including, but not limited to, guests, invitees, lessees, agents, contractors, and subcontractors.

D. Public Safety

Notwithstanding anything to the contrary herein, the State need not provide advance notice or a cure period and may immediately take action if it is necessary to preserve public safety or to prevent an immediate public crisis.

E. Valuation: Condemnation or Termination

Each Party shall promptly notify the other Party in writing when it first learns of any condemnation proceeding or any other action that might terminate or extinguish this CE in whole or in part. If this CE is taken, in whole or in part, by exercise of the power of eminent domain, or if this CE is otherwise properly terminated or extinguished, in whole or in part, the State shall be entitled to full compensation for its interest in any portion of this CE terminated as a result of condemnation or other proceedings, which shall be determined by a qualified appraisal that establishes the ratio of the value of the CE interest to the value of the fee simple interest in the Property as of the date of the taking or termination (the “Easement Value Ratio”). The State’s compensation shall be an amount at least equal to the Easement Value Ratio, multiplied by the value of the unencumbered fee simple interest in the portion of the Property no longer encumbered by this CE as a result of condemnation or termination. The State shall use any such proceeds in a manner consistent with the purposes of this CE and in compliance with Treasury Regulation §1.170A-14(g)(6)(i).

13. NOTICES AND REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party’s principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

State	Grantor
Name and/or Title	Name and/or Title
Department Name	Department Name
Address	Address
Town, State Zip	Town, State Zip
Email	Email

14. LIMITATION OF STATE LIABILITY

Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of CRS §24-10-101 et seq. (the “CGIA”) and CRS §24-30-1501, et seq. (“Risk Management”). No term or condition of this CE shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the CGIA or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

15. GENERAL PROVISIONS

A. Binding Arbitration Prohibited

The State does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this CE or incorporated herein by reference shall be null and void.

B. Binding Effect-Perpetual Application

All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective heirs, legal representatives, successors, and assigns; and shall continue as a servitude running in perpetuity with the Property and Water Rights.

C. Captions

The captions and headings in this CE are for convenience of reference only and shall not be used to interpret, define, or limit its provisions.

D. Construction of this CE

This CE shall be liberally construed to further the intent and purposes of this CE. In the event of an ambiguity in this CE, the rule of contract construction that ambiguities shall be construed against the drafter shall not apply.

E. CORA Disclosure

To the extent not prohibited by federal law, this CE and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

F. Counterparts

This CE may be executed in multiple identical original counterparts constituting one agreement.

G. Entire Understanding

This CE represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have force or effect, unless embodied herein.

H. Indemnification

Grantor shall defend, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability, and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission on or related to the Property by Grantor or its employees, agents, subcontractors, or

assignees pursuant to the provisions of this CE, including, but not limited to, the presence or release of any hazardous or toxic substance, pollutant, or contaminant that is regulated under any federal, State, or local law; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the CGIA or the Federal Tort Claims Act, §28 U.S.C. 2671 et seq., if applicable. Without limiting the foregoing, nothing in this CE shall be construed as giving rise to any right or ability of the State to exercise physical or managerial control over Grantor's day-to-day operations of 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.

I. Joint and Several Obligations

If more than one owner owns the Property at any time, the obligations imposed by this CE shall be joint and several upon each of the owners.

J. Jurisdiction and Venue

All suits or actions related to this CE shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the county in which the Property is situated.

K. Modification

i. By the Parties

The Parties recognize that the foregoing Conservation Values may change over time due to environmental changes and other factors beyond the Parties' control, and that this CE may require amendment to address such changes while preserving, modifying, or adding to the foregoing Conservation Values. The Parties shall negotiate such amendments in good faith when and if necessary. Except as specifically provided in this CE, modifications hereof shall not be effective unless agreed to by the Parties in a written amendment hereto, properly executed and approved in accordance with applicable Colorado State Law, State Fiscal Rules, and Office of the State Controller Policies. Modifications inconsistent with the Conservation Values, that would affect the perpetual nature of this CE, or that would otherwise negatively affect the qualifications of this CE under any applicable law, including CRS §38-30.5-101 et seq. or §170(h) of the Internal Revenue Code, are prohibited. All modification shall be recorded in the county or counties in which the Property is situated.

ii. By Operation of Law

This CE is subject to such modifications as may be required by changes in Federal or Colorado State Law or their implementing regulations. Any such required modification shall be automatically incorporated as part of this CE on the effective date of such change as if fully set forth herein.

L. References

All references in this CE to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

M. Severability

Provided this CE can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this CE in accordance with its intent.

N. Subsequent Transfers

Grantor shall incorporate the terms and conditions of this CE in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property. Grantor shall provide written notice to the State of the transfer of any interest at least 45 days prior to the date of such transfer.

O. Taxes

The State is exempt from State and local government taxes. Grantor shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Grantor for such taxes.

P. Third Party Beneficiaries

Enforcement of this CE and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this CE are incidental to the CE, and do not create any rights for such third parties.

Q. Waiver

Waiver of any breach or event of default under a term, provision, or requirement of this CE, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement. Grantor hereby waives any defense of laches, estoppel, or prescription, including any defenses available under CRS §38-41-119. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this CE or limit its enforceability in any way.

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16. SIGNATURE PAGE

IN WITNESS WHEREOF, Grantor has executed this Deed of Conservation Easement burdening the Property as of the Closing Date.

GRANTOR: Name,

By: _____
Name, Title

Attest:

By: _____
Name, Title

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me the _____ day of _____ 20__, by Name, Title, and _____, Title, of _____, a Type of Entity .

Witness my hand and official seal.

Notary Public
My Commission Expires: _____

(Seal)

GRANTEE: ACCEPTED by the STATE OF COLORADO, JOHN HICKENLOOPER, GOVERNOR

By: _____
Name, Title

The Division of Parks and Wildlife for Executive Director of the Department of Natural Resources and on behalf of the Parks and Wildlife Board

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me the ___ day of _____ 20__, by Name, acting on behalf of the State of Colorado, Department of Natural Resources, benefitting the Division of Parks and Wildlife and Parks and Wildlife Board, Grantee.

Witness my hand and official seal.

Notary Public
My Commission Expires: _____

(Seal)

EXHIBIT A (Property Legal Description)

EXHIBIT B (Property Map)

EXHIBIT C (Title Exceptions)

EXHIBIT D (Water Rights)

EXHIBIT E (Management Plan)