

THIS IS A TEMPLATE FOR DISCUSSION PURPOSES ONLY.  
ALL CONSERVATION EASEMENTS ARE DIFFERENT. PLEASE SEEK YOUR OWN  
LEGAL COUNSEL TO HELP CRAFT AN EASEMENT THAT MEETS STATUTORY  
REQUIREMENTS, THE UNIQUE NEEDS OF YOUR FAMILY AND THE  
CONSERVATION VALUES OF YOUR LAND.

When recorded, return to:

EASEMENT HOLDER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**GRANT OF CONSERVATION EASEMENT**

THIS GRANT OF CONSERVATION EASEMENT (“Grant”) is made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by and between \_\_\_\_\_, whose address is \_\_\_\_\_ (the “Grantor”) and EASEMENT HOLDER, ADDRESS (the “Grantee”).

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

- Exhibit A: Legal Description of the Property [INCLUDING WATER RIGHTS IF ANY];
- Exhibit B: Property Map;
- Exhibit C: Permitted Uses and Practices;
- Exhibit D: Restricted Uses and Practices; and
- Exhibit E: Acknowledgement of Easement Documentation Report

RECITALS

A. The Grantor owns real property in \_\_\_\_\_ County, State of [\_\_\_\_\_], consisting or approximately \_\_\_ acres, as described in **Exhibit A** and shown for reference purposes on the Property Map attached as **Exhibit B**, together with all appurtenances thereto, including, without limitation, all minerals and mineral rights, if any, and all water and water rights appurtenant to such real property (collectively, the “Property”).

B. As fee owner of the Property, the Grantor owns the affirmative rights to identify, preserve, and protect forever the conservation values of the Property. Grantor desires to grant a conservation easement to the Grantee pursuant to Idaho Code Sections 55-2101 to 55-2109, which authorizes protection of natural, scenic, open space, aesthetic, historic, hydrologic, ecological, agricultural, and scientific values that are of great importance to the Grantor, the Grantee, the people of [\_\_\_\_\_] County, and the people of the State of Idaho, **IF DONATION UNDER IRS CODE, ADD IN** - and in accordance with the federal tax code and Internal Revenue Service rules and regulations applicable to qualified conservation contributions.

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C. The particular conservation values intended to be preserved and protected for the public benefit under this Conservation Easement include, without limitation, [examples: 1) water quality and quantity of the \_\_\_\_\_ River and its tributaries; 2) spawning and rearing habitat for anadromous and resident fish including, 3) functioning riparian ecosystem and associated native flora and fauna; 4) functioning wetland ecosystem and associated native flora and fauna; 5) unfragmented open space; 6) wildlife habitat which contributes to a biologically diverse ecosystem including various species of birds, mammals, and reptiles; 7) important visual corridor; 8) unplowed grasslands; 9) natural stream corridors and waterways; 10) vernal pools; 11) corridors for the unimpaired passage of wildlife, 12) wildlife rangeland; 13) irrigated farm and grazing land,] (collectively, the “**Conservation Values**”). [The Property also has values recognized in the following conservation policies: insert federal, state or local plans, etc.].

D. As of the Effective Date, the Grantee is a nonprofit corporation incorporated under the laws of the [STATE] as a tax-exempt public charity described in Sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code, organized to protect and conserve natural areas and ecologically significant land for scientific, charitable, and educational purposes; is a “qualified organization” within the provisions of Section 170(h) of the Internal Revenue Code, qualified to acquire and hold conservation easements; and is a qualified “holder” of a conservation easement under Idaho statute.

E. To accomplish the Conservation Purposes (as defined in Paragraph 1 below), the 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.

### CONSERVATION EASEMENT TERMS

NOW THEREFORE, in consideration of the recitals set forth above and in consideration of the mutual covenants, terms, conditions, and restrictions contained in this document and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the Idaho state law, in particular, Idaho Code Sections 55-2101 to 55-2109, Grantor voluntarily grants and conveys to the Grantee, its successors and assigns, and the Grantee hereby accepts, a perpetual conservation easement in, on, over, and across the Property, subject to the terms and conditions set forth in this Grant, restricting forever the uses that may be made of the Property and granting the Grantee certain rights in the Property (the “**Conservation Easement**”); and the Grantor and the Grantee agree as follows:

1. CONSERVATION PURPOSES. The purposes of the Conservation Easement are to preserve and protect in perpetuity and, in the event of their degradation or destruction, to enhance and restore the significant relatively natural features and Conservation Values of the Property, and to conserve important habitat for wildlife; to protect rare or unique native plants; and to conserve the diverse forest, meadow and riparian vegetative communities and the wildlife inhabiting these communities. In achieving the above-named purposes (collectively the

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“**Conservation Purposes**”), it is the intent of the Conservation Easement to permit the continuation of such uses of the Property as may be conducted consistent with the Conservation Values protected herein.

2. EASEMENT DOCUMENTATION REPORT. The parties acknowledge that an Easement Documentation Report (the “**Report**”), providing a collection of baseline data on the Property and its resources, has been prepared and that the Report has been approved in writing by the Grantee and the Grantor. A copy of the Report is on file with the Grantor and the Grantee at their respective addresses for notices set forth in Paragraph 18. Acknowledgement of the Report by the Grantee and the Grantor is attached to this Conservation Easement as Exhibit E. The parties agree that the Report contains an accurate representation of the biological and physical condition of the Property at the time of conveyance and of the historical uses of the Property, including historical water uses. Notwithstanding the foregoing, if a controversy arises with respect to the nature and extent of the change in the biological or physical condition of the Property, the parties shall not be foreclosed from utilizing any and all other relevant documents, surveys, or other evidence or information to assist in the resolution of the controversy.

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 Conservation Easement include the following:

A. Preserve and Protect. The Grantee may preserve, protect, identify, monitor, and, in the event of their degradation or destruction, enhance, and restore in perpetuity the Conservation Values.

B. Entry and Access Rights. The Grantee is, by this Conservation Easement, granted rights of access to enter upon the Property in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, to study and make scientific observations of the Property and of natural elements and ecosystems and other features of the Property, to determine whether the Grantor’s activities are in compliance with the terms of this Conservation Easement, and to take all actions deemed necessary by the Grantee to enforce the terms of this Conservation Easement, all upon reasonable prior notice to Grantor and in a manner that does not unreasonably disturb the use of the Property by Grantor consistent with the Conservation Easement. The Grantee shall also have the right of immediate entry to the Property if, in its sole judgment, such entry is necessary to prevent, terminate, or mitigate a violation of the Conservation Easement, or to preserve and protect the Conservation Values.

C. Enforcement. The Grantee may prevent or enjoin any activity on or use of the Property that constitutes a breach of this Conservation Easement and may enforce the restoration of such areas or features of the Property that might be damaged by any breach.

4. PERMITTED USES OF THE PROPERTY. Except as prohibited or otherwise limited by this Conservation Easement, the Grantor reserves the right to use and enjoy the Property in any

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manner that is consistent 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 Conservation Easement and shall not be precluded, prevented, or limited, except as specifically conditioned in Paragraph 5 or Exhibit D, or in those instances in which prior approval by the Grantee is required under this Conservation Easement.

5. LIMITED AND PROHIBITED USES OF THE PROPERTY. 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, none of the uses described in Exhibit D shall be made of the Property.

6. PROPOSED PRACTICES OR ACTIVITIES; MEDIATION. If any question exists regarding whether certain uses or activities are permitted or would be inconsistent with the Conservation Purposes or would diminish or impair the Conservation Values, the Grantor shall notify the Grantee in writing and obtain the Grantee's written approval prior to engaging in such practices or activities.

7. APPROVAL REQUEST. Grantor shall not undertake or permit any activity requiring 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 Conservation Easement requires prior written approval by the Grantee, Grantor shall send the Grantee written notice of Grantor's intention to undertake such activity. The notice shall 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 and shall be delivered in a manner described in Paragraph 18 below. If in the Grantee's judgment additional information is required to adequately review the proposal, the Grantee shall send written notice requesting such additional information within 15 days of receipt of Grantor's notice.

No later than 45 days from the Grantee's receipt of information adequate to review the proposal, the Grantee shall notify Grantor of its disapproval or approval or 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 Conservation Easement. Approval to proceed with, or failure to object to, any proposed use or activity shall not constitute consent to any subsequent use or activity of the same or any different nature.

8. REMEDIES.

A. Notice of Violation; Corrective Action. If the Grantee becomes aware that a violation of the terms of this Conservation Easement has occurred or is threatened to occur, the Grantee may give written notice to the Grantor of such violation. If the Grantor fails to cure the violation within thirty (30) days after receipt of notice from the Grantee, or under circumstances

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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 shall have all remedies available at law or in equity to enforce the terms of this Conservation 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 prior to the undertaking of such prohibited activity (regardless of whether the costs of restoration exceed the value of the Property), to pay monetary amounts which, if not paid, could result in extinguishment, modification, non-enforcement or impairment of this Conservation Easement, and/or to recover any additional damages arising from the violation. The Grantee's rights under this Paragraph apply equally to actual or threatened violations of the terms of this Conservation Easement. The Grantor agrees that the Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Grantee shall be 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 Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies described in this Paragraph 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Furthermore, the provisions of Idaho Code Sections 55-2101 to 55-2109 are incorporated into this Conservation Easement by this reference, and this Conservation Easement shall include all of the rights and remedies set forth therein.

B. Costs of Enforcement. In any action, suit or other proceeding undertaken to enforce the provisions of this Conservation Easement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs and expenses including attorneys' fees, and if such prevailing party recovers judgment in any action or proceeding, such costs and expenses shall be included as part of the judgment. In addition, any costs of restoration shall be borne by the Grantor if Grantor is deemed to be responsible for damage to the Property.

C. Emergency Enforcement. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values or to prevent breach or extinguishment of the Conservation Easement, the Grantee may pursue its remedies under this Paragraph 8 without prior notice to the Grantor and without waiting for the cure period to expire.

D. The Grantee's Discretion. Enforcement of the terms and provisions of this Conservation Easement shall be at the sole discretion of the Grantee, and the failure of the Grantee to discover a violation or to take action under this Paragraph 8 shall not be deemed or construed to be a waiver of the Grantee's rights under this Conservation Easement with respect to such violation in the event of any subsequent breach. In no event shall 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.

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E. Acts Beyond the Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond the Grantor's control, including fire, flood, storm, earth movement, and other natural disasters.

9. REPRESENTATIONS AND WARRANTIES.

A. Hazardous Materials. To the best of Grantor's knowledge, the Grantor represents and warrants that the Property (including, without limitation, soil, groundwater, and surface water) is free of any conditions that individually or in the aggregate: (i) constitute a present or potential threat to human health, safety, welfare, or the environment; or (ii) violate any Environmental Law, as that term is defined in Paragraph 19. The Grantor represents and warrants that there are no underground tanks located on the Property. The Grantor represents and warrants that the Grantor shall comply with all Environmental Laws in using the Property and that the Grantor shall keep the Property free of any material environmental defect, including, without limitation, contamination from Hazardous Materials, as that term is defined in Paragraph 19.

B. State of Title. Grantor represents and warrants that the Grantor has good and sufficient title to the Property (including all appurtenances thereto, including, without limitation, all minerals and mineral rights and all water and water rights), free and clear of any liens or encumbrances that might cause extinguishment of this Conservation Easement, or that would materially impair the Conservation Purposes, and that the Grantor has full right and authority to grant this Conservation Easement.

C. 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.

D. 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 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.

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

10. COSTS, LEGAL REQUIREMENTS, AND LIABILITIES. The Grantor shall be responsible for and shall bear all costs and liabilities of any kind related to the ownership,

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operation, upkeep, and maintenance of the Property and agrees that the Grantee shall 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 the Grantor, the public, or any third parties from risks relating to conditions on the Property. The Grantor agrees to pay before delinquency any and all real property taxes and assessments levied on the Property and agrees that the Grantor shall 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 the Grantor. The Grantor shall be solely responsible for any costs related to the maintenance of general liability insurance covering Grantor's acts on the Property. The 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 Conservation Easement, and any activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, rules, regulations, and requirements. If more than one person or entity constitutes the Grantor, the obligations of each and all of them under this Conservation Easement shall be joint and several.

11. RUNNING WITH THE LAND. The Conservation Easement created by this Grant shall burden and run with the Property in perpetuity. Every provision of this Conservation Easement that applies to the Grantor or the Grantee shall also apply forever to and shall burden or benefit, as applicable, their respective agents, heirs, devisees, administrators, employees, personal representatives, lessees, and assigns, and all other successors as their interest may appear.

12. SUBSEQUENT TRANSFERS.

A. Grantor may transfer the Property in its entirety, but not in any portion less than its entirety. Subject to the above restriction, Grantor shall otherwise have all rights to use and enjoy the water resources on the Property as permitted under state and federal laws, subject to the limitations set forth in **Exhibit D**.

B. The Grantor agrees that the terms, conditions, restrictions, and purposes of this Conservation Easement or reference thereto will be inserted by the Grantor in any subsequent deed or other legal instrument by which the Grantor divests either the fee simple title or a possessory interest (including, but not limited to, any leases) of the Property; and the Grantor further agrees to notify the Grantee of any pending transfer (including, without limitation, leases) at least forty five (45) days in advance of the transfer. Leasing all or any portion of the Property for a period of five (5) or more years is subject to prior written approval by the Grantee, which approval shall not be unreasonably withheld, conditioned, or delayed. The failure of the Grantor to comply with this Paragraph 12 shall not impair the validity of this Conservation 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 all or any portion of the Property, shall be deemed to have consented to, reaffirmed, and agreed to be bound by all of the terms, covenants, restrictions, and conditions of this Conservation Easement.

13. INDEMNIFICATION. Notwithstanding any other provision of this Conservation Easement to the contrary, the parties agree to indemnify, defend, and hold each other, including,

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without limitation, each party's directors, officers, employees, agents, contractors, and their successors and assigns (collectively, the **"Indemnified Parties"**), harmless from and against any costs, liabilities, penalties, damages, claims (whether based on negligence or strict liability), 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: (a) use of or activities on the Property by the other party; (b) the material inaccuracy of any representation or warranty made herein by the other party; (c) any material breach of this Conservation Easement by the other party; and (d) requests for approvals for activities whether given or withheld under this Conservation Easement, except as the result of the unreasonableness, gross negligence or intentional misconduct of the party from whom approval was sought.

Notwithstanding the foregoing, the Grantor shall indemnify, defend, and hold harmless the Grantee and its Indemnified Parties for all of the following:

A. Taxes. 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.

B. Hazardous Materials. Any Hazardous Material, as that term is defined in Paragraph 19, present on the Property after the date of this Conservation Easement, unless brought to the Property by the Indemnified Parties.

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

If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Each party shall promptly notify the other when it first learns of such circumstances. The amount of the proceeds to which the Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by law at the time, in accordance with the Paragraph 16 below. The Grantee shall use all such proceeds in a manner consistent with the Conservation Purposes of this Conservation Easement.



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15. CONDEMNATION. If all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor and the Grantee shall 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 shall be divided in accordance with the proportionate value of the Grantee's and the Grantor's interests at the time of this grant, it being expressly agreed that this Conservation Easement constitutes a compensable property right. All expenses incurred by the Grantor and the Grantee in such action shall be paid out of the recovered proceeds.

16. PROCEEDS. This Conservation Easement constitutes a real property interest immediately vested in the Grantee, which the parties stipulate to have a fair market value equal to \_\_\_\_\_% of the full fair market value of the Property at the time of the grant of this Conservation Easement. For the purpose of this Easement, the ratio of the value of the Easement to the value of the Property unencumbered by the Conservation Easement shall remain constant.

17. AMENDMENT. If circumstances arise under which an amendment to or modification of this Conservation Easement might be appropriate, the Grantee and Grantor may by mutual written agreement jointly amend this Conservation Easement, provided that no amendment shall be made that will adversely affect the qualification of this Conservation Easement or the status of the Grantee as a qualified holder under any applicable laws, including the Internal Revenue Code or Idaho statute. Any such amendment shall be consistent with the protection of the conservation and preservation of the Conservation Values of the Property and the Conservation Purposes of this Conservation Easement; shall not affect its perpetual duration; and shall not permit any private benefit to any person or entity without proportionate benefit to the Grantee, in accordance with rules and regulations governing 501(c) non-profit organizations and the Grantee's internal policies and procedures. Any such amendment shall be recorded in the land records of \_\_\_\_\_, County, Idaho. Nothing in this paragraph shall require either party to agree to any amendment or to consult or negotiate regarding any amendment.

18. NOTICE

A. Notice for Entry. Where notice to the Grantor of the Grantee's entry upon the Property is required under this Conservation Easement, the Grantee shall notify any of the persons constituting the Grantor or their authorized agents by telephone or in person or by written notice in the manner described in Paragraph 18(B) prior to such entry.

B. Written Notices. Any written notice called for in this Conservation Easement shall be delivered: (i) in person; (ii) by certified mail, return receipt requested, postage prepaid; (iii) by facsimile 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 shall be addressed as follows:

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To the Grantee: EASEMENT HOLDER  
\_\_\_\_\_ Address

Fax:

With a copy to:  
Grantee Legal Counsel  
Address

To the Grantor: MUST BE STREET ADDRESS

with a copy to:

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

19. INTERPRETATION.

A. Intent. It is the intent of this Conservation 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 instrument is found to be ambiguous, an interpretation consistent with protection of the Conservation Values and Conservation Purposes shall be favored, regardless of any general rule of construction. No remedy or election given by any provision in this Conservation Easement shall be deemed exclusive unless so indicated, but it shall, wherever possible, be cumulative with all other remedies at law or in equity. The parties acknowledge that each party and its counsel have reviewed and revised this Conservation Easement and that no rule of construction that ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Conservation Easement. In the event of any conflict between the provisions of this Conservation Easement and the provisions of any use and zoning restrictions of the [State of Idaho], the county in which the Property is located, or any other governmental entity with jurisdiction, the more restrictive provisions shall apply.

B. Governing Law. This Conservation Easement shall be interpreted in accordance with the laws of the [State of Idaho].

C. Captions. The captions have been inserted solely for convenience of reference and are not part of the Conservation Easement and shall have no effect upon construction or

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interpretation.

D. No Hazardous Materials Liability. Notwithstanding any other provision of this Conservation Easement to the contrary, nothing in this Conservation Easement shall be construed such that it creates in or gives to the Grantee: (i) the obligations or liabilities of an “owner” or “operator” as those words are defined and used in Environmental Laws (as that term is defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC Section 9601 et seq.) (“**CERCLA**”); (ii) the obligations or liabilities of a person described in 42 USC Section 9607(a)(3); (iii) the obligations of a responsible person under any applicable Environmental Law; (iv) any obligation to investigate or remediate any Hazardous Materials, as defined below, associated with the Property; or (v) any control over the Grantor’s ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

E. Definitions.

(i) The terms “**Grantor**” and “**Grantee**,” wherever used in this Conservation Easement, and any pronouns used in place thereof, shall mean and include, respectively, the Grantor and the Grantor’s personal representatives, heirs, devisees, personal representatives, and assigns, and all other successors as their interest may appear and the Grantee and its successors and assigns.

(ii) The term “**Hazardous Materials**” includes, without limitation, any of the following wastes, materials, chemicals, or other substances (whether in the form of liquids, solids, or gases, and whether or not airborne) which are ignitable, reactive, corrosive, toxic, or radioactive, or which are deemed to be pollutants, contaminants, or hazardous or toxic substances under or pursuant to, or which are to any extent regulated by or under or form the basis of liability under any statute, regulation, rule, ordinance, order, or requirement concerning such wastes, materials, chemicals, or other substances (in each case, an “**Environmental Law**”), including, but not limited to, petroleum-based products and any material containing or producing any polychlorinated biphenyl, dioxin, or asbestos, as well as any biocide, herbicide, insecticide, or other agricultural, at any level that may (a) constitute a present or potential threat to human health, safety, welfare, or the environment, (b) exceed any applicable or relevant and appropriate cleanup standard, or (c) cause any person to incur any investigation, removal, remediation, maintenance, abatement, or other cleanup expense; it being understood that such Environmental Laws include, but are not limited to CERCLA, as defined above; the Hazardous Materials Transportation Act (49 USC Sections 6901 et seq.); similar Idaho state environmental laws; and any rule, regulation, or other promulgation adopted under any of the foregoing laws.

(iii) 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.





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**EXHIBIT A**

**To Grant of Conservation Easement**

**LEGAL DESCRIPTION OF THE PROPERTY**

**ALSO LIST WATER RIGHTS IF ANY**

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**EXHIBIT B**

**To Grant of Conservation Easement**

**PROPERTY MAP**

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**EXHIBIT C**

**To Grant of Conservation Easement**

**PERMITTED USES AND PRACTICES**

**SAMPLE PROVISIONS FOR AGRICULTURAL PROPERTY**

The uses set forth in this **Exhibit C** detail specific activities that are permitted under the Conservation 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 Conservation Easement to the contrary, in no event shall any of the permitted uses of the Property (whether set forth in this **Exhibit C** or elsewhere in this Conservation Easement) be conducted in a manner or to an extent that diminishes or impairs the Conservation Values or that otherwise violates this Conservation Easement.

1. **AGRICULTURAL OPERATIONS.**

A. **Ranching Activities.** The Property may be used for commercial grazing, pasturing, and watering of cattle, sheep and horses and other activities reasonably incidental thereto solely as follows and in compliance with the terms and conditions of this Conservation Easement (collectively “**Ranching Operations**”). Ranching Operations shall be: (i) conducted in a manner that maintains or improves, but does not impair or diminish, the ecological and range conditions of the Property as documented in the Report; (ii) consistent with the best livestock management and agricultural practices in the general geographic area of the Property; and (iii) consistent with all applicable laws, rules, and regulations.

B. **Other Agricultural Uses.** Hay production and irrigation practices are allowed, provided such activities are conducted in a manner consistent with the standards set forth above in **Paragraph 1** of this **Exhibit C**.

C. **Fertilizers, Pesticides, Herbicides, and other Biocides.** Use of fertilizers on the Property 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 and other invasive exotic plant species and conducted in compliance with all applicable laws, rules, regulations and manufacturer’s label instructions. Use of herbicides for any other purpose must be approved by the Grantee. Use of pesticides and biocides is prohibited unless approved by the Grantee. Aerial spraying of any agricultural chemicals is prohibited. Use of biological weed and insect control agents shall be permitted, subject to prior approval by the Grantee.

[ADD IN BUILDING ENVELOPE IN NEEDED FOR NEW CONSTRUCTION]

2. **MAINTENANCE, REPAIR AND REPLACEMENT.**



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[ADD IN PROVISIONS FOR EXISTING HOUSING ENVELOPE IF ANY]

A. Agricultural Improvements. The Grantor shall have the right to use, maintain, and repair all agricultural improvements that exist on the Property as of the date of this Conservation Easement, and if destroyed, the right to reconstruct or replace the structure with a structure of similar size, function, capacity and site location. The Grantor shall have the right to construct no more than one permanent livestock handling structure as necessary for the uses authorized herein. The location and size of the structure shall be subject to approval by the Grantee.

B. Fencing. Fences that exist on the Property as of the date of this Conservation Easement may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock without any further permission of the Grantee, provided that such fencing shall not unduly restrict or impair wildlife movement.

C. Roads and Trails. Grantor may repair and maintain existing roads and trails on the Property as of the date of this Conservation Easement at the current level of improvement for each road or trail as of the date of this Conservation Easement. Improvement beyond the current level shall require the prior written approval of the Grantee, which shall be determined in the Grantee's sole discretion. The Grantor may construct and maintain new roads and trails on the Property, provided that: (i) such new roads and trails, if constructed on the Property, will be reasonably necessary for the permitted uses; (ii) the Grantor will have obtained the Grantee's prior written approval, which will not be unreasonably withheld, conditioned, or delayed, for the construction of such new roads and trails; and (iii) such new roads and trails will not be constructed within the high water mark of any natural water feature, will not materially impact the Conservation Purposes, and will comply with all terms and conditions of this Conservation Easement.

3. FISHING AND HUNTING. The Property may be used for hunting, trapping, or fishing, provided that such activities are conducted in compliance with all applicable laws, rules, and regulations. In controlling predatory and problem animals, Grantor shall comply with all applicable laws and use selective control techniques, which shall be limited in their effectiveness to specific animals that have caused damage to livestock and other property.

4. WATER RESOURCES. The Grantor may maintain, repair and if destroyed, reconstruct, existing domestic, livestock watering and irrigation facilities. New water resources and facilities may be constructed only upon prior written approval of the Grantee, which shall not be unreasonably withheld.

5. PASSIVE RECREATIONAL USES. Grantor may conduct passive, non-commercial recreational activities on the Property, including, but not limited to, bird watching, hiking, horseback riding, and picnicking.

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**EXHIBIT D**  
**To Grant of Conservation Easement**

**PROHIBITED USES OF THE PROPERTY**

Though not an exhaustive list of prohibited uses, none of the uses described below shall be made of the Property. The following are set forth both to list specific prohibited activities on the Property and to provide guidance in determining whether or not other activities are inconsistent with the Conservation Purposes.

1. **NO SUBDIVISION.** The legal or de facto division, subdivision, or partitioning of the Property is prohibited. Notwithstanding the fact that, as of the Effective Date, the Property might be composed of separate legal parcels, the terms and conditions of this Conservation Easement shall apply to the Property as a whole, and the Property shall not be sold, transferred, or otherwise conveyed except as a whole, intact, single piece of real estate; it being expressly agreed that neither the Grantor nor the Grantor's personal representative, heirs, successors, or assigns shall sell, transfer, or otherwise convey any portion of the Property that constitutes less than the entire Property. The existence of any separate legal parcels, if any, as of the Effective Date shall not be interpreted to permit any use or activity on an individual legal parcel that would not have been permitted on such individual legal parcel under the terms and conditions of this Conservation Easement as applied to the Property as a whole. Notwithstanding the remainder of this Paragraph 1, ownership of the Property may be held in the form of undivided interests as tenants in common, whether by choice or by operation of any applicable laws, but no owner of an undivided interest in the Property shall have the right of exclusive occupancy or exclusive use of any separate portion of the Property, or any right to have the Property partitioned in kind, whether pursuant to Idaho statute or otherwise.

2. **NO NON-RANCHING COMMERCIAL USES.** The establishment of any commercial or industrial uses on the Property, other than Ranching Operations allowed under Exhibit C, is prohibited. Examples of prohibited commercial or industrial uses include, but are not limited to: (a) the establishment or maintenance of any commercial feedlots, which are defined as any confined area or facility within which the land is not grazed or cropped annually for purposes of engaging in the business of the reception and feeding of livestock for hire; (b) the planting and cultivation of commercial orchards; (c) the establishment or maintenance of any commercial greenhouses or plant nurseries; (d) the establishment or maintenance of any dairies; (e) the establishment or maintenance of any mineral extraction activities; (f) wild game ranching or farming, or raising of animals for fur production purposes; or (g) the establishment of any commercial overnight lodging business, day lodge, dude ranch, guiding, hunting or fishing service, restaurant or other eating establishment. The establishment of any apartment buildings or other multi-family dwellings on the Property is prohibited.

3. **NO USE OR TRANSFER OF DEVELOPMENT RIGHTS.** Except as expressly permitted by the terms of Exhibit C, the exercise of any development rights associated with the Property is prohibited, including, without limitation, the construction or placement of any

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residential or other buildings, roads or vehicle trails, golf courses, camping accommodations, boat ramps, bridges, 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, sewer systems or lines.

Except as expressly permitted by the terms of **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; provided, however, that, with prior written permission of the Grantee, this **Paragraph 3** shall not preclude such transfer of development rights resulting from the destruction or demolition of any existing residential buildings on the Property.

4. **NO NATURAL RESOURCE DEVELOPMENT.** Subject to valid existing rights, the exploration for or extraction of minerals, gas, hydrocarbons, soils, sands, gravel, or rock, or any other material on or below the surface of the Property is prohibited. The Grantor shall not grant any rights to any minerals, oil, gas, or hydrocarbons, including exploration or extraction rights in or to the Property, and the Grantor shall not grant any right of access to the Property to conduct exploration or extraction activities for minerals, oil, gas, or hydrocarbons, or other substances on any other property.

5. **NO HAZARDOUS MATERIALS.** The use, dumping, storage, or other disposal of non-compostable refuse, trash, sewer sludge, or unsightly or toxic or Hazardous Materials or agrichemicals is prohibited, except that fertilizers and herbicides permitted under **Exhibit C** may be used and stored on the Property, and fertilizers, herbicides, pesticides and other biocides permitted under **Exhibit C** may be used and stored, 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.

6. **JUNK YARDS.** The storage or disassembly of inoperable automobiles, machinery, equipment, trucks, and similar items for purposes of storage, sale, or rental of space for any such purpose is prohibited.

7. **NO ALTERATION OF NATURAL WATER COURSES; NO DEGRADATION OF WATER QUALITY.** Except for the current permitted irrigation practices, the manipulation or alteration of any natural water course, wetland, streambank, shoreline, vernal pool or body of water is prohibited. Except for the current permitted irrigation and agricultural uses, activities or uses detrimental to water quality, including, but not limited to, degradation or pollution of any surface or subsurface waters, are prohibited.

8. **OFF ROAD VEHICLE USE.** The use of any motorized vehicles off existing roadways and trails, except as reasonably necessary for permitted Ranching Operations, is prohibited, and the use of motorized vehicles for off-road recreational purposes is prohibited; provided, however,

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snowmobile use is permitted on the Property.

9. INTRODUCTION OF GRASSES, PLANT, ANIMAL SPECIES OR EXOTICS. Except as permitted by the terms of **Exhibit C**, no seeding, planting, or introduction of grasses, clovers, or any other plant species is permitted, except grasses and clovers for livestock forage. Except as expressly permitted by the terms of **Exhibit C**, the introduction of any non-native plant or non-native animal species is prohibited.

10. NO PLOWING, DISKING, ALTERATION OF TOPOGRAPHY. The plowing, disking, cultivation, ripping, planting, sowing, irrigation, or any change in the topography of the Property through the placement on the Property of soils, land fill, dredging spoils, or other materials, or any other conversion or disturbance of the Property is prohibited, except for: (a) the grazing of livestock as permitted by Paragraph 1 of **Exhibit C**; (b) hay production as permitted by Paragraph 1 of **Exhibit C**; (c) repair and maintenance of existing roads and trails pursuant to Paragraph 3(C) of **Exhibit C**; or (d) pursuant to an approved restoration or management plan for wetlands or native plant restoration and enhancement activities as permitted by Paragraph 10 of **Exhibit C**. Notwithstanding any provision of this Paragraph 10 or the remainder of this Conservation Easement to the contrary, in no event shall any permitted plowing, disking, cultivation, ripping, planting, sowing, irrigation, or any other conversion or disturbance of the Property diminish or impair the Conservation Values.

11. NO CONVERSION OF PROPERTY. Except as otherwise permitted in Paragraph 1(B) of **Exhibit C**, the use of the Property for or conversion of the Property to crops, orchards, vineyards, or any other agricultural or commercial purpose is prohibited.

12. DESTRUCTION OF NATIVE VEGETATION. The removal, cutting or destruction of native vegetation is prohibited. Notwithstanding this Paragraph 12 or any other provision set forth in this Conservation Easement (including any permitted activities under **Exhibit C**), in no event shall the Grantor under any circumstances remove, cut, destroy, or otherwise adversely affect any white spruce on the Property.

13. TIMBER HARVESTING. The taking or harvesting of timber, standing or downed, on the Property, except for disease or insect control or to prevent property damage or personal injury, is prohibited. In no event may timber be collected for or used for commercial purposes.

14. 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.

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**EXHIBIT E**

**To Grant of Conservation Easement**

**ACKNOWLEDGMENT OF EASEMENT DOCUMENTATION REPORT**

Grantor and Grantee acknowledge that each has read the \_\_\_\_\_ Easement Documentation Report dated \_\_\_\_\_, and that the Report accurately reflects the condition of the Property subject to the Conservation Easement as of the date of the Deed and grant of the Conservation Easement.

GRANTOR:

GRANTEE, a STATE nonprofit corporation

\_\_\_\_\_

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

Name: \_\_\_\_\_

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