Conservation Easement for the Property near Oregon

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is made this of by the party known as "Grantor", which word includes the Grantor's executors, administrators, legal representatives, devisees, heirs, successors, and assigns, in favor of the Oregon Conservancy Corporation, an IRC §501(c)(3) Oregon nonprofit corporation qualified to do business in Oregon, which is a land conservancy qualified to receive this easement under ORS 271.715-271.795 and IRS Code §170(h), of in Oregon. ("Grantee").

Background and Parties Intentions:

1. Grantor is the sole owner in fee simple of certain real property comprising acres more or less, located in the community of County, Oregon that will be encumbered with this easement. This property contains significant and important habitat for wildlife and plant species native to the Eco-region (hereinafter "Property"). The Property is more specifically identified on Exhibit "A" - Legal Description, attached hereto, and incorporated herein by this reference, and shown in Exhibit "B" - Taxlots and Conservation Easement Overlay.

2. Purpose: It is the purpose of this Conservation Easement to ensure that the Property described will be retained, maintained and managed forever in its natural, scenic, and native forested, and riparian condition, as documented in the Baseline Documentation Report on file with Grantee, and to prevent any use of the Property that will impair or interfere with the identified and documented conservation values of the Property.

   Landowner Intent:
   The Grantor intends
   A. That the conservation values of the Property be preserved and maintained by limiting land uses and activities to those that do not significantly impair or interfere with those values and to those that are consistent with applicable laws; and
   B. As owner of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity.

   The Grantee intends by accepting this grant to preserve and protect in perpetuity the conservation values of the Property stated herein for the benefit of this generation and generations to come.

3. The Property possesses certain agricultural, natural, scenic, open space, habitat, and water quality protection values associated with the watershed (collectively, "conservation values"), of great importance to Grantee, the people of the basin and County, the State of Oregon and the United States of America, specifically:

   A. The Property includes dynamic floodplain and miles frontage of an important tributary to .
   B. Significant areas of riparian hardwood forest and riparian vegetation dominated by black cottonwood, red alder, and bigleaf maple which provide shading for aquatic species and water temperature attenuation, refuge for terrestrial species, large game and predatory species, woody material for the river, and habitat for migrating birds;
C. River side channel and a perennial stream which may provide habitat for threatened native
anadromous fish and for red-legged frogs and western pond turtles, all being species of concern as
listed by the Oregon Department of Fish and Wildlife;
D. The Property’s location within an Oregon Conservation Strategy Conservation Opportunity Area
as delineated by ODFW;
E. The Property’s presence within a Oregon Department of Environmental Quality defined drinking
water source area;
F. Connectivity to upland forested lands and other protected properties along the river
G. Scenic and open space values of the property in an area of encroaching development.
H. Productive farmland in an increasingly residential landscape.

The specific conservation values of the Property are further documented in an inventory of relevant
features of the Property on file at the offices of the Grantee, which is incorporated by this reference
("Baseline Documentation Report" or "BDR"). The BDR consists of reports, maps, photographs, and
other documentation that the parties agree provide, collectively, an accurate representation of the
Property at the time of this grant and which is intended to serve as an objective, though nonexclusive,
information baseline for monitoring compliance with the terms of this easement.

**Legislative Intentions**

1. Regarding farm land protection and preservation, the State of Oregon Legislative Assembly has
declared, "Open land used for agricultural use is an efficient means of conserving natural resources that constitute an
important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or
metropolitan areas of the state." (ORS 215.243 (1)) and "The preservation of a maximum amount of the limited supply
of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in
large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful
and nutritious food for the people of this state and nation" (ORS 215.243 (2)).

2. The riparian area and the Property may provide critical native habitat for at least fifteen
species listed by the Oregon Department of Fish and Wildlife as Sensitive Species. Examples of such
species include, but are not limited to: yellow-breasted chat, western bluebird, western meadowlark, little
willow flycatcher, northwestern pond turtle, red-legged frog, and spring Chinook salmon.

3. The Property possesses a significant riparian area, as defined in ORS 541.351(10), dominated by native
trees and their associated understory along the banks of the

4. The State of Oregon Legislative Assembly has declared "that it is in the best interest of the State to maintain,
preserve, conserve and rehabilitate riparian lands to assure the protection of the soil, water, fish and wildlife resources of the
state for the economic and social well-being of the state and its citizens. The Legislative Assembly declares that riparian
habitat maintained in a healthy condition is a legitimate land use that contributes to erosion control, improved water
quality and prolonged stream flow." (ORS 308A.353);

5. The property lies within a drinking water source area and the State has set forth the goal in Oregon
statute 468B.005, to protect, maintain and improve the quality of the waters of the state for public water supplies, for the
propagation of wildlife, fish and aquatic life and for domestic, agricultural, industrial, municipal, recreational and other
legitimate beneficial uses.

6. It is the adopted policy of the State of Oregon to encourage the protection and management of these
conservation qualities through voluntary partnerships, as evidenced by ORS 541.353, which states in part:

"(1) The Legislative Assembly finds that:

**Conservation Easement**
(a) The long-term protection of the water resources of this state, including sustainable watershed functions, is an essential component of Oregon's environmental and economic stability and growth;
(b) Each watershed in Oregon is unique, requiring different management techniques and programs;
(c) Management techniques and programs for the protection and enhancement of watersheds can be most effective and efficient when voluntarily initiated at the local level;
(d) Cooperative partnerships between affected private individuals, interested citizens, tribes and representatives of local, state and federal agencies may improve opportunities to achieve the protection, enhancement and restoration of the state's watersheds; and
(e) The establishment of such cooperative partnerships should be encouraged by local individuals, local organizations and representatives of state agencies."

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of Oregon, in particular ORS 271.715 to 271.795, and the IRS Code §170(h), Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the entirety of the Property of the nature and character and to the extent set forth in this agreement ("Easement").

1. Rights of the Grantee. To accomplish the purposes of the Easement, Grantor conveys to Grantee the following rights:
   a. To identify additional Conservation Values on the Property;
   b. To preserve and protect the Conservation Values of the Property;
   c. To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with Paragraph 6 herein; provided that, except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and;
   d. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Paragraph 6 herein.

2. Prohibited Uses. Activity on the Property shall be consistent with the maintenance of the Property's conservation values. Certain activities and uses are inconsistent with the conservation values of the Property and the Purpose of this Easement and are therefore prohibited or restricted as specified below upon or within the Property. Under the terms of this Easement, the Property is described as consisting of three zones: Zone A (Conservation Zone), Zone B (Agricultural Zone) and Zone C (Agricultural Infrastructure Zone). Each zone has Prohibited Uses and Reserved Rights associated with it. Prohibited uses which apply across the entirety of the Property are listed first. Prohibited uses which apply to each zone are then listed. Certain of these uses are identified as being subject to specified conditions, with respect to Reserved Rights in Paragraph 3, or with the requirement for prior written approval by the Trust; procedures for prior approval are provided below in Paragraph 4.

A. All Zones
1. Prohibited Uses within all Zones

   a. Dividing, partitioning, subdividing, or any other form of de facto subdivision or lot line adjustment on the Property. The encumbered Property may not be conveyed except as a single property in its current configuration.
b. Construction of residential or commercial dwellings.

c. Any new development including but not limited to dikes, berms, water storage areas, channels, roads, and the like inconsistent with this Easement, and the Reserved Rights herein.

d. The allowance of farm fields to go fallow without management of vegetation through mowing or replanting with native species without prior written approval by Grantee.

e. Except as allowed for in Paragraph 2. f. below, altering or removing soil or water, including any excavation, mining, removal of topsoil, rock, minerals, hydrocarbons, sand, gravel, or similar materials, or changing the topography of the Property.

f. Earthwork activity conducted without Grantee’s prior approval or earthwork activity which falls outside the scope of typical farm activities (plowing, discing, ripping, harrowing, and cultivating). Given that the Property may be the subject of enhancement and restoration activities, surface alterations on the site aimed at enhancing the Property’s conservation values may occur. Such alterations undertaken by Grantee, with the express purpose of supporting and/or enhancing the Property’s conservation values, are allowed.

g. Altering current watercourses for any purpose, except with the consent of Grantee.

h. Any commercial or industrial activity, outside of agricultural activity subject to the Reserved Rights in Paragraph 2.

i. Any cellular phone or other communication tower placement on the Property.

j. Dumping or disposal of waste, refuse, and debris on the Property except that which is generated by activities permitted herein, provided that any such dumping or disposal shall be in accordance with applicable laws. This provision applies also to animal manure generated on adjacent lands. The Grantor does not husband livestock or other stock currently, but subject to the Reserved Rights in Paragraph 3, they or any future landowner will employ Best Management Practices to ensure that any manure management practices do not compromise the Property’s conservation values, particularly its water quality protection.

k. Placement of any signs or billboards, except signs stating the conditions of access to the Property, property identification signs, boundary markers, directional signs, signs posting the Property against trespass and hunting, memorial plaques, political signs, and temporary signs indicating that the Property is for sale. Signs advertising farm stand sales will be permitted in conservation easement zones B and C as described in Paragraph 3 herein.

l. The permanent storage of vehicles on the Property.

m. The maintenance of vehicles, including changing of oils, repair and rebuilding of machinery and tools.

n. The washing, spraying or cleaning of vehicle parts or machinery, which may carry oils or other toxic residues to the soils or waters of the Property or the adjacent

o. The permanent storage of petroleum products, herbicides, pesticides, or other substances, which, if accidentally released, would pose a danger to clean water or wildlife habitat.

p. Subject to the Reserved Rights in Paragraph 3, the treatment of the soils or surfaces of the Property with petroleum products or biologically toxic substances, including, but not limited to, pesticides and herbicides, which may run into the water, ground or surface areas of the site, unless approved by the Grantee.

q. Subject to the Reserved Rights in Paragraph 3, the use of poison, traps, or other such devices for reasons other than those expressly permitted herein or with Grantee’s approval.

r. Subject to the Reserved Rights in Paragraph 3, grazing by any farm animals or livestock (eg. cows, pigs, goats), that could adversely affect native vegetation or cause soil and riparian disturbance without Grantee’s approval. Confined Animal Feeding Operations (CAFO) are prohibited by this easement.
s. Commercial hunting activities occurring on the property. This provision is not intended to prohibit the Grantor and Grantor's invited guests or future resident-owners and their invited guests from engaging in occasional recreational hunting.

t. Any use of the Property that is inconsistent with the purposes of this Easement.

B. Zones A (Conservation Zone) and B (Agricultural Zone)

1. Prohibited Uses within Zone A and B
   
a. The creation of additional rights-of-way and access easements including driveways, roads and utility lines unless specifically permitted in this document or unless Grantee's approval has been obtained. Except as is stated herein, use of existing roads, trails and rights-of-way, including driveways identified in the Baseline Documentation Report on file with Grantee, and existing easements is unaffected.

   b. The placement or construction of any additional buildings or building-like structures on the Property, other than those stated within the Reserved Rights herein.

C. Zones A (Conservation Zone)

1. Prohibited Uses within Zone A
   
a. Off-driveway or off-trail operation of machinery or vehicles, unless deemed essential by Grantee for the enhancement or protection of the Easement's purpose, terms and conditions, or if required for a permitted activity or a reserved right in Paragraph 3.

   1. Grantor intends that, during wet seasons and/or wet weather, all motorized vehicles shall be limited, except in emergency circumstances, from those natural areas of the property identified as wetlands, ponds, or prairie in the Baseline Documentation Report kept on file with Grantee, except with Grantee's approval. Any impacts resulting from wet-season use of existing trails and roads shall be remedied by the Grantor or future owners of the Property.

   b. Subject to Paragraph 3 herein, physical cutting or otherwise removing native trees, timber, shrubs, vegetation except where such actions restore native species and ecological functions of the Property or preserve human health and safety. Any such action shall be consistent with this Easement's purpose, terms and conditions, unless Grantee's written approval is first obtained.

3. Reserved Rights. Grantor reserves unto himself, and to his personal representatives, heirs, successors, and assigns, all rights accruing from ownership of the Property including the right to engage in all uses of the Property not expressly prohibited or restricted herein or by law and that are not inconsistent with the Purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of Paragraph 2, the following rights are expressly reserved:

A. All Zones

1. Reserved Rights within all Zones

   a. Restoration and monitoring of natural and native ecological functions of the property for the long-term benefit of the Property. Any such activity must have minimal impacts on the surrounding vegetation.

   b. The cutting of trees for native ecological enhancement, and for the protection of livelihood and property. Such activity must minimize impacts on the identified conservation values of the Property.

   c. Removal of non-native, invasive species by the landowners or their agents, heirs, and subsequent owners.
d. Continued recreational use of the property including the right to camp on the property with their invited guests for limited duration as long as such use does not significantly impact the conservation values of the Property. Camp sites are meant to be temporary and all waste removed from the site when activities are concluded.

c. Limited use of potentially harmful substances (e.g., pesticides, insecticides, herbicides, fungicides, fertilizers, etc.) so as not to have an adverse effect on wildlife habitat or water quality. Limited herbicide use is also permitted to aid in the removal of invasive species to the extent permitted in the above paragraph. Applications of chemicals must comply with all product labels and applicable state and federal regulations and may only be used on non-native invasive species.

f. The use of existing trails identified in the Baseline Documentation Report for horseback riding, all terrain vehicles (ATVs) consistent with Paragraph 2.B.1.b. and general non-motorized use, as long as such use does not significantly impact the conservation values of the Property. Grantor reserves the right to mow existing paths not to exceed ten feet in width in order to provide access for recreational use of the property.

g. The maintenance and upkeep of existing trails and access roads using methods (such as brush clearing and targeted herbicide use) that does not significantly impair the conservation values of the Property.

h. The right to create and maintain foot trail paths, for non-motorized use, as identified in the Baseline Documentation Report trails map.

i. Right to maintain access to the irrigation intake or reddish as identified in the Baseline Documentation Report infrastructure map.

j. General enjoyment of the Property by the landowner(s) and their invited guests that does not impair its conservation values.

B. Zones B (Agricultural Zone) and C (Agricultural Infrastructure Zone)

1. Reserved Rights within Zone B and C
   a. Raising and harvesting of hay and other crops
   b. Grazing of livestock in a manner that sustains pasture condition, minimizes soil compaction and erosion, and does not significantly impact the Property's natural resource conservation values.
   c. Maintenance and addition of current or future fences needed for the containment of grazing animals in a pasture.
   d. Placement of not more than two signs advertising the presence of the farm stand, should one be built in Zone C.

C. Zone C (Agricultural Infrastructure Zone) only

1. Reserved Rights within Zone C
   a. Construction of non-residential structures associated with farm infrastructure: greenhouses not to exceed a total of 10,000 square feet in size, a storage shed up to 1,600 square feet, and a farm sales stand up to 500 square feet.
   b. Re-alignment of driveway and/or access road and utilities as is necessary to enable the development and use of agricultural infrastructure in Zone C.

4. Grantee’s Approval. Where Grantee’s consent or approval is required by subparagraphs of Paragraph 2, Grantee is to grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request therefore. Grantee’s approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Easement.
5. **Arbitration.** Any dispute between parties, except for an action seeking an injunction, which cannot be resolved by the parties, must be settled by arbitration before a single arbitrator in a manner consistent with the Oregon Uniform Arbitration Act, ORS 36.600 through ORS 36.740 as varied by this paragraph. Arbitration will occur in [redacted] Oregon. Either party may initiate arbitration by providing to the other party, by certified mail, a request for arbitration, which describes the nature of the controversy and the remedy sought, along with a list of three (3) available neutral arbitrators. The party receiving the request must designate one arbitrator from the list within fifteen (15) days of the date of request; if no choice is made during that time, the party requesting arbitration may choose one arbitrator from the list, who will conduct the arbitration. The arbitrator must conduct all proceedings and render a decision within sixty (60) days of the appointment. The parties will be entitled to conduct discovery as provided by the Oregon Uniform Arbitration Act, subject to the limitation by the arbitrator to secure just and efficient resolution of the dispute. The arbitrator's decision will be final, subject only to the rights of appeal provided in ORS 36.600 through ORS 36.740, with the additional ground for exception that the arbitrator misapplied the law. Each party will bear their own costs and attorneys' fees incurred in connection with the arbitration. A party substantially prevailing in any and all appeals to Circuit Court and to the appellate courts may be entitled to recover such amounts for costs and attorneys' fees in connection with the appeal, as is determined by the Court. Judgment upon the arbitration may be entered in any court having jurisdiction. Nothing in this Agreement, however, will prevent a party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

6. **Grantee's Remedies.**
   a. **Easement boundary maintenance.** The boundaries of the easement area are established in the baseline documentation report on file with the grantee and are clearly marked in the field to assist with the Trust's annual monitoring effort. The Grantee reserves the right to require additional surveys if a land use prohibited in Paragraph 2 is occurring close to an easement boundary and only a survey can resolve the question of whether the easement boundary has been breached. If the Grantee prevails in establishing that a restricted activity is or was occurring within the Property, the landowner shall reimburse the Grantee for costs associated with survey. Upon engaging survey work to learn that a restricted activity is taking place in an area outside the easement, the Grantee will pay all survey costs.
   b. **Notice of Violation; Corrective Action.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, a directive to restore the portion of the Property so injured.
   c. **Injunctive Relief.** If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fail to begin curing such violation within the thirty (30) day period, or fail to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, without notice and without bond at the time suit is filed by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to such injury. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are adequate.
   d. **Emergency Enforcement.** If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the

*Conservation Easement - [redacted]*
Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire.

e. **Scope of Relief.** Grantee shall be entitled to recover reasonable damages for violation of the terms of this Easement, including but not limited to damages for the loss of scenic, aesthetic, or environmental values, including but not limited to the cost of undertaking any corrective action on the Property. The parties agree that Grantee may recover all such damages even if they happen to exceed the fair market value of Grantee’s interest in the property.

f. **Costs of Enforcement.** Any cost incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs of suit and attorneys’ fees on appeal where Grantee substantially prevails, and any costs of restoration necessitated by Grantor’s violation of the terms of this Easement will be borne by Grantor. If Grantor substantially prevails in any action to enforce the terms of this Easement, Grantor’s costs of suit, including, without limitation, attorneys’ fees on appeal, will be borne by Grantee.

g. **Grantee’s Discretion.** Enforcement of the terms of this Easement will be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee’s rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

h. **Waiver of Certain Defenses.** Grantor hereby waives any defense of laches, estoppel, or prescription.

i. **Acts Beyond Grantor’s Control.** Nothing contained in this Easement is to be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor’s control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. **Access.**

No right of access by the general public to any portion of the Property is conveyed by this Easement. The Grantor or any future owners may grant broad public access, but that access would be granted at the owner’s discretion and with approval from Small invited groups, guests of the landowner, school groups, researchers, and staff of the USFWS, ODFW, and NRCS staff) are not considered “the public” and are therefore permitted to enter the Property at the owner’s discretion alone.

8. **Costs, Liabilities, and Environmental Compliance.**

a. **Upkeep and Maintenance.** Grantor retains all responsibilities and shall bear all cost and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability insurance coverage and payment of any and all property taxes. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any use permitted by this Easement, and all such activities or uses shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. If needed, the Grantee will assist the Grantor in identifying sources of technical assistance and funding to accomplish maintenance and enhancement activities. The Grantor shall keep the Property free of any liens arising out of any work performed for, or materials furnished to Grantor.

b. **Remediation.** If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state,
or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all reasonable steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefore.

c. Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree or judgment, to any right or ability in Grantee to exercise physical or managerial control: (1) over the day-to-day operations of the Property; or (2) over any of Grantor's allowable activities on the Property; or (3) as an "owner or operator" with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"; 42 USC 9601 et seq).

9. Taxes. Grantor must pay, before delinquency, all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of this Easement, and must furnish Grantee with satisfactory evidence of payment upon request. With Grantor's permission, Grantee is authorized, but in no event obligated, to make or advance any payment of taxes, upon seven (7) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment will bear interest until paid by Grantor at the lesser of: two (2) percentage points over the prime rate of interest from time to time charged by U.S. National Bank of Oregon or the maximum rate allowed by law.

10. Representations and Warranties of Grantor. Grantor represents and warrants that, after reasonable investigation and to the best of his knowledge:
   a. Fee Title. Grantor is the owner in fee simple of the Property and has the right to convey the Easement to Grantee.

   b. Environmental Matters.
      i. No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, stored, deposited, disposed of, or abandoned on the Property, except for types and quantities of materials used for common household purposes;
      ii. To the best of Grantor's knowledge, there are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;
      iii. Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
      iv. There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
      v. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, requirement applicable to the Property or its use, nor do there exist any facts or
circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

11. **Representations and Warranties of Grantee.** Grantee is a publicly supported, tax exempt nonprofit organization, qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code and is a qualified organization to hold, monitor and manage this Property under the ORS 271.715 to 271.795, whose primary purpose is the preservation, protection or enhancement of land in its natural, scenic, and/or open space condition in perpetuity through title interest;

12. **Hold Harmless.** Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or death of any person, or physical damage to any property, resulting from any act, condition, omission of any duties of Grantor under this instrument, or other matter related to or occurring on or about the Property, regardless of cause; in the event of shared negligence, Grantor agrees to indemnify the Grantee to the extent of Grantor's liability as determined by an arbitrator or the court; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property; (3) the presence or release in, on from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, or in any way harmful or threatening to human health or the environment, unless caused by any of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of Paragraphs 10, 11, 12, 13, 14, and 15 herein.

13. **Extinguishment, Valuation, Condemnation, and Amendments.**
   a. **Extinguishment.** If circumstances arise in the future such as to render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which 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 Oregon law at the time, in accordance with Paragraph 13.b.
   b. **Valuation.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of Paragraph 13.a, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in the value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code of 1954, as amended. For the purpose of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.
   c. **Condemnation.** If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other
authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee’s share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in Paragraph 13.b.

d. **Amendment.** If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including ORS chapter 271 or Section 170(h) of the Internal Revenue Code of 1954, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of County, Oregon.

14. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated there under, and authorized to acquire and hold conservation easements under ORS 271.715 to 271.795 (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least twenty (20) days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

15. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which he divests himself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

16. **Estoppel Certificates.** Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor, or any party designated to Grantor, any document, including an estoppel certificate, which certifies, to the best of the Grantee’s knowledge, Grantor’s compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of Grantee’s most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor’s expense, within, thirty (30) days of receipt of Grantor’s written request therefore.

17. **Notices.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the parties at the addresses first stated above, on page 1 of this Easement, or to such other address as either party from time to time shall designate by written notice to the other.

18. **Recordation.** Grantee shall record this instrument in timely fashion in the official records of County, Oregon and may re-record it at any time as may be required to preserve its rights in this Easement.
19. **General Provisions.**

a. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Oregon.

b. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purpose of ORS 271.715 to 271.795. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstances, is found to be invalid, the remainder of the provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. **Entire Agreement.** This instrument, with its exhibits, sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Paragraph 15.d.

e. **No Forfeiture.** Nothing contained herein will result in a forfeiture or revision of Grantor’s title in any respect.

f. **Joint Obligation.** The obligations imposed by this Easement upon Grantor(s), or his/her/their successors, shall be joint and several.

g. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. Unless specifically provided otherwise, the terms “Grantor” and “Grantee,” wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and his, her or their personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns. The singular shall include the plural, and the plural shall include the singular, as the sense may require.

h. **Terminations of Rights and Obligations.** A party’s rights and obligations under this Easement terminate upon transfer of the party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

i. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

j. **Counterparts.** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
TO HAVE AND TO HOLD unto Grantee, its successors, and assigns, forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

This instrument was acknowledged before me on ___/___/___ by ________________

DATED: ______________________

STATE OF OREGON                
)
)
COUNTY OF LANE


This instrument was acknowledged before me on ___/___/___ by ________________

DATED: ______________________

STATE OF OREGON                
)
)
COUNTY OF LANE


This instrument was acknowledged before me on ___/___/___ by ________________

DATED: ______________________

STATE OF OREGON                
)
)
COUNTY OF LANE


Conservation Easement -