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Return to Grantee, P.O. Box 1848, Durham, NC 27702

**Excise Tax: \$1,100.0**

**NORTH CAROLINA  
WAKE COUNTY**

REID: 0036399  
PIN: 2705921498

### **DEED OF CONSERVATION EASEMENT**

This Deed of Conservation Easement (hereinafter “Conservation Easement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2025, by Thurman W. Johnson and wife, Jan. J. Johnson whose address is 502 Temple Johnson Road, Zebulon, NC 27597-8751 (collectively “Grantor”) and Triangle Land Conservancy, a North Carolina nonprofit corporation, whose address is P.O. Box 1848, Durham, NC 27702 (“Grantee”), and with a right of enforcement to Wake County (“Wake County”).

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neutral pronouns as required by context.

### **RECITALS**

A. Grantor is the sole owner in fee simple of that property (the “Property”) legally described in **Exhibit A**, attached hereto and incorporated by this reference, which consists of 33.092 acres, more or less, located in Wake County, North Carolina, and that is shown on the plat recorded in Book of Maps \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry (the “Plat”). The Plat is incorporated herein by reference.

B. Grantee is a nonprofit organization, operated primarily for conservation purposes, including protection of environmentally valuable and sensitive land for charitable, scientific, educational, and aesthetic purposes. Grantee is a tax exempt public charity under Section 501(c)(3) and 509(a)(2) of the Internal Revenue Code, is authorized by the laws of the State of North Carolina to accept, hold and administer interests in land including conservation easements, is willing to accept this Conservation Easement under the terms and conditions hereinafter described,

and is a “qualified organization” and “eligible donee” within the meaning of Section 170(h)(3) of the Internal Revenue Code and regulations promulgated thereunder.

C. Grantor and Grantee recognize that the Property has outstanding open space, agricultural, forestry, water quality, and wildlife values. The Property in its present state has conservation value because it has not been subject to significant development and because it provides a “relatively natural habitat” for “fish, wildlife, or plants or similar ecosystem” as that phrase is used in Section 170(h)(4)(A)(ii) of the Internal Revenue Code. These conservation values of the Property are herein collectively referred herein to as the “Conservation Values.”

D. The protection of the Property will yield significant public benefits, as evidenced by:

(1) N.C.G.S. § 139-2 et seq., which provides that “It is hereby declared . . . [that t]he farm, forest and grazing lands of the State of North Carolina are among the basic assets of the State and the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people . . . . It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this State . . . .”

(2) N.C.G.S. § 106-583 et seq., which states, “It is declared to be the policy of the State of North Carolina to promote the efficient production and utilization of the products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum prosperity.”

(3) The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. Section 4201, et seq., whose purpose is “to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland”;

(4) The American Farm and Ranch Protection Act, P.L. 105-34, Sec. 508, whose purpose is “to encourage conservation easements on family farms and ranch lands”;

(5) Article 14 Section 5 of the Constitution of the State of North Carolina which states “It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, open lands, and places of beauty”;

(6) The special use assessment of farm and forest lands set forth in N.C.G.S. § 105-277.2 et seq. and of historic properties set forth in N.C.G.S. § 105-278;

(7) The Property has significant forested acreage in the Neuse River Basin and contributes to the requirement by the State of North Carolina of a basin-wide management plan for the Neuse River, for the purpose of protecting water quality, public water supply, significant wetlands and natural areas within the watershed; and

(8) The enabling legislation for the Clean Water Management Trust also known as the North Carolina Land and Water Fund at N.C.G.S. § 143B-135.230 et seq. which recognizes the importance of protecting riparian buffers in conserving clean surface water.

E. The characteristics and specific Conservation Values of the Property, and its current use and state of improvement, are described in a report entitled Temple Johnson Road Farm Baseline Documentation Report (the “Baseline Documentation Report”) prepared by Grantee with the cooperation of Grantor. The parties acknowledge that the Baseline Documentation Report is accurate as of the date of this Conservation Easement. A copy of the Baseline Documentation Report will remain on file in the office of Grantee and will be used to assure that the terms and conditions of this Conservation Easement are fulfilled and that any future changes in the use of the Property will be consistent with the terms of this Conservation Easement. However, the Baseline Documentation Report is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use or state of improvement.

F. Grantor and Grantee have the common purpose of conserving the above-described Conservation Values of the Property in perpetuity, and the State of North Carolina has authorized the creation of Conservation Easements pursuant to the terms of the North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. § 121-34 et seq., and N.C.G.S. §§ 160A-266 to 279, which provides for the enforceability of restrictions, easements, covenants or conditions “appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, horticultural, farming, or forest uses,” and which provides for tax assessment of lands subject to such agreements “on the basis of the true value of the land and improvements less any reduction in value caused by the agreement”; and Grantor and Grantee wish to avail themselves of the provisions of that law.

**NOW, THEREFORE**, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Grantor hereby unconditionally and irrevocably gives, grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity for the benefit of the people of North Carolina, a Conservation Easement over the Property of the nature and character as follows, together with the right to preserve and protect the Conservation Values thereof and the right of access to the Property for the purposes granted herein:

1. PURPOSE

The purposes of this Conservation Easement are: (1) to assure, subject to the reservations herein set out, that the Property will be retained forever predominantly in its natural, scenic, rural, forested, agricultural, and open space condition; (2) to protect and maintain agricultural soils, native plants, animals, and plant communities on the Property, while allowing traditional uses on

the Property that are compatible with and not destructive of the Conservation Values of the Property, such as timber harvesting, grazing, agriculture, hunting, and other similar recreational use; and (3) to prevent any use of the Property that will significantly impair or interfere with the Conservation Values or interests of the Property. The goal is to allow long-term responsible management of forest and agricultural resources in a manner that does not compromise water quality, wildlife habitat, unique plant communities or other cultural, historic or natural resource values on the Property.

Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purposes of this Conservation Easement. All rights reserved by Grantor are considered to be consistent with the conservation purposes of this Conservation Easement and require no notification to or approval by Grantee unless expressly provided for hereunder. Grantor understands that nothing in this Conservation Easement relieves Grantor of any obligation or restriction on the use of the Property imposed by law.

## 2. PROPERTY USES

Grantor reserves to itself, its personal representatives, heirs, successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with this Conservation Easement. Any activity on, or use of, the Property inconsistent with the purposes of this Conservation Easement is prohibited. The Property shall be maintained in its natural, scenic and open condition and restricted from any development that would significantly impair or interfere with the Conservation Values of the Property. Without limiting the generality of the foregoing, the following is a list of activities and uses which are expressly prohibited or which are expressly allowed.

### (A) *Forest Management*

Except as prohibited within the Water Quality Buffer pursuant to the terms of Section 2(E) below, forest management to maintain the general health of the forest ecosystem and generate occasional income from the harvest and sale of forest products, including the harvesting of timber and cutting or destruction of trees or other plants, may be allowed with the prior written approval of the Grantee and in accordance with this Section 2(A).

All forest management activities must be (1) in accordance with a written forest management plan prepared by a North Carolina registered forester ("Forest Management Plan"), and (2) approved in advance by the Grantee. The Forest Management Plan must be updated and re-approved by Grantee at least every ten (10) years so long as Grantor wishes to continue to actively manage the forest or harvest forest products. If no forest management is intended, a Forest Management Plan is not required, but there shall be no active forest management without an approved Forest Management Plan.

A Harvest Plan prepared by a North Carolina registered forester ("Harvest Plan") must be submitted to the Grantee for its approval at least thirty (30) days prior to any commercial harvest of timber. There shall be no active timber harvest without a Harvest Plan approved

by Grantee. All timber harvesting shall be conducted: (1) outside the Water Quality Buffer as defined in Section 2(E); (2) on a sustainable yield basis; and (3) in accordance with a written Forest Management Plan and Best Management Practices described below. No commercial silvicultural activity may occur until the Forest Management Plan and a more specific Harvest Plan have been approved in writing by the Grantee.

All forest management activities shall be conducted in accordance with North Carolina Division of Forest Resources' Best Management Practices guidelines for timber harvest and management as the same may be promulgated by law or regulation in the State of North Carolina and as adopted by the North Carolina organization of professional foresters, as may be amended from time-to-time.

Notwithstanding the foregoing, tree or vegetation cutting may be permitted outside the Water Quality Buffer (as defined in Section 2(E) below) without approval of the Grantee to maintain existing trail and road access, cutting for firewood and for the maintenance of fences and permitted Pond.

(B) *Agricultural and Horticultural Use*

Except as prohibited within the Water Quality Buffer pursuant to the terms of Section 2(E), and subject to the terms set forth in 2(I) below, agricultural use, horticultural use, and grazing of the Property are permitted provided that all such uses are conducted in a manner not inconsistent with the purposes of this Conservation Easement and provided further that:

(i) Livestock are permitted, but under no circumstances shall there be such use of a size or scope as to constitute an industrial or factory-type agricultural or livestock operation, intensive livestock operations, or animal husbandry, any of which may be characterized by the continuous confinement of livestock in tightly confined environments for the purposes of raising, feeding, and fattening for market. Waste retention ponds and anaerobic lagoons are not allowed on the Property. Slaughtering facilities are not permitted on the Property; provided, however, that slaughtering facilities are permitted for the sole purposes of slaughtering animals predominantly raised on the Property. In no event shall animals be brought onto the Property solely for purposes of slaughter. As used herein, the term "livestock" means equine animals, cloven-hoofed animals, chickens, turkeys, ducks, geese, or other domestic fowl. As used herein, "intensive livestock operations" means "concentrations of 300 or more animal units" or "any enclosure, pen, feedlot, building, or group of buildings intended for the confined feeding, breeding, raising or hold of animals where animal waste may accumulate or where vegetative cover cannot be maintained due to the concentration of animals."

(ii) All farming operations shall be in accordance with Best Management Practices of the State of North Carolina and applicable federal, state, and local laws under a "Conservation Plan" a copy of which shall be provided to Grantee. The Conservation Plan shall be developed using the standards and specifications of the

Natural Resource Conservation Service (NRCS) Field Office Technical Guide and 7 CFR Part 12 or equivalent standards developed by the appropriate federal, state or local conservation entity if these standards are no longer the standards used by the industry; any change in agricultural use or activity shall require updating of the Conservation Plan as may be required pursuant to such standards and specifications. The Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and that is consistent with the NRCS Field Office Technical Guide standards and specifications or other such standards and specifications as developed by the appropriate governmental authority. The Conservation Plan shall be designed to ensure the maintenance of a good quality mix of introduced and native grasses and forbs, while managing pests and nutrients on portions of the Property that are used as pasture land, and protecting soil stability, water quality and other Conservation Values of the Property on portions of the Property that are used for agriculture. This Conservation Plan shall be reviewed and updated every five (5) years unless otherwise permitted by Grantee; provided, if no active agricultural use is intended, no Conservation Plan is required. Grantor shall deliver to Grantee copies of all Conservation Plan updates and modifications promptly upon completion of the same.

(iii) No agricultural activities, whether now existing or commenced in the future, shall be conducted in any manner that will in the opinion of the Grantee: (a) adversely impact the water quality of any creek, river, stream, wetland or other water resource; (b) harm any threatened or endangered species; (c) destroy any “significant conservation interest” as that phrase is used in Treas. Reg. § 1.170A-14(e)(2); or (d) otherwise conflict with the conservation purposes of this Conservation Easement.

For purposes of this Conservation Easement, “agricultural use” is defined as the science or practice of farming, including: cultivation of soil for the growing of crops; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (as defined in Section 15(g) of the Agricultural Marketing Act, 12 U.S.C. 1141); the raising of livestock, fur-bearing animals, or poultry; private or commercial stabling of animals; the rearing of animals to provide food, wool and other products; and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations (including preparation for market, delivery to storage or to market, or to carriers for transportation to market); provided that the foregoing excepts activities expressly allowed pursuant to Section 2(A) above, and provided further that the foregoing excepts raising bees (including but not limited to practices incidental to beekeeping, including harvesting honey), which shall be subject to the terms of the second paragraph of Section 2(C) below. For purposes of this Conservation Easement, “horticultural use” is defined as the art or practice of garden cultivation and management, including but not limited to growing plants that are used by people for food, for medicinal purposes, and for aesthetic gratification.

(C) *Recreational Use and Other Use*

Subject to the terms set forth in Section 2(E), Grantor shall have the right to engage in and permit others, whether or not for consideration, to engage in “Non-intensive Outdoor Recreation” on the Property. “Non-intensive Outdoor Recreation” is defined as dispersed, non-motorized recreational activities that do not generally rely on buildings and have minimal impact on renewable natural resources. Such activities include but are not limited to hiking, bird watching, camping, picnicking, horseback riding, and lawful hunting and fishing that require no surface alterations or other development of the Property. Grantor may lease or license any portion of the Property for such Non-intensive Outdoor Recreation purposes. Grantor reserves the right to promulgate and enforce reasonable rules and regulations for all activities incidental to recreational use of the Property, including but not limited to the right to prohibit any recreational use that would permit severe damage to or destruction of other significant Conservation Values of the Property. All hunting and fishing activities shall be conducted in such a manner so as to not harm any threatened or endangered species. No hunting, fishing, wildlife enhancement or other recreational activity shall be conducted in any manner that would permit the “destruction of [any] significant conservation interest” as that phrase is used in Treas. Reg. § 1.170A-14(e)(2) or otherwise conflict with the conservation purposes of this Conservation Easement.

Additionally, Grantor also reserves the right to engage in activities carried out on a farm because of its farm or rural setting and that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own-activities, or natural activities and attractions, whether or not the participants pay to participate in the activity (collectively referred to hereinafter as “Agritourism”). In all events, the manner of undertaking the activity shall not permit the destruction of any “significant conservation interest” as that phrase is used in Treas. Reg. § 1.170A-14(e)(2), or otherwise undermine the conservation purposes of this Conservation Easement.

Grantor and Grantee acknowledge that, in view of the perpetual nature of this Conservation Easement, they are unable to foresee all potential future uses, future technologies, future evolution of the Property and other natural resources, and other future occurrences affecting the purposes of this Conservation Easement. Grantee therefore may approve, or disapprove, a proposed activity not expressly contemplated by or addressed in this Conservation Easement, provided that such proposed activity is consistent, or in the case of disapproval inconsistent, with the purposes of this Conservation Easement.

*(D) Envelopes; Uses; Construction of Buildings and Other Structures and Improvements*

Grantor and Grantee have identified the areas on the Property herein referred to as “Farmstead Building Envelope A”, “Farmstead Building Envelope B” and “Residential Building Envelope” (collectively the “Envelopes”), as more fully described on **Exhibit B** attached hereto and incorporated herein, and more particularly described in the Baseline Documentation Report. For purposes of this Conservation Easement, Farmstead Building Envelope A and Farmstead Building Envelope B are collectively referred to as the “Farmstead Building Envelopes.”

Subject to the terms of this Conservation Easement, in addition to the uses expressly permitted in Sections 2(A), (B), and (C), Grantor reserves the right to use the Farmstead Building Envelopes for lawful and customary rural enterprises that are carried out in farm or rural settings, including, by way of illustration, but not limitation: equestrian facilities; farm machinery repair enterprises; bed and breakfast; events for weddings, meetings, birthday parties, anniversaries, reunions and similar events; religious activities such as ceremonies and rituals; and heritage tourism or educational programs. The Farmstead Building Envelopes may also be used for residential purposes only if the residential purpose is secondary and incidental to other permissible uses in the Farmstead Building Envelopes, and for home occupations so long as they are incidental and subordinate to the use for residential purposes and the home occupation is otherwise in compliance with applicable federal, state, and local laws, regulations, and requirements.

Subject to the terms of this Conservation Easement, in addition to the uses expressly permitted in Sections 2(A), (B), and (C), Grantor reserves the right to use the Residential Building Envelope for:

- (i) lawful and customary rural enterprises that are carried out in farm or rural settings, including, by way of illustration, but not limitation: equestrian facilities; farm machinery repair enterprises; bed and breakfast; events for weddings, meetings, birthday parties, anniversaries, reunions and similar events; religious activities such as ceremonies and rituals; heritage tourism or educational programs; and
- (ii) residential purposes, short term residential tenancies, ancillary uses to a residential structure, and home occupations so long as they are incidental and subordinate to the use for residential purposes and the home occupation is otherwise in compliance with applicable federal, state, and local laws, regulations, and requirements.

Grantor is prohibited from using the Residential Building Envelope for any other purpose without prior written approval from the Grantee. In requesting any such prior written approval, Grantor must notify Grantee in writing in accordance with the provisions of Section 9, including at a minimum, sufficient information to enable Grantee to determine whether the proposed use is consistent with the terms of this Conservation Easement. Grantor shall provide Grantee with any additional information requested by Grantee that is necessary or proper in Grantee's evaluation of Grantor's proposed use. In determining whether to approve Grantor's proposed use, Grantee shall take into whether the proposed use requires the expansion of structures within the Residential Building Envelope or the increase of impervious surface area within the Residential Building Envelope, and shall also take into account the impact of such use on: (a) the value of the Property as an open space (including the impact of access roads or related traffic associated with any new improvements located on the Property); (b) the Property and surrounding area's environment, including but not limited to air and water quality issues; (c) any threatened or endangered species located in or near the Property; and (d) such other considerations as the Grantee shall deem proper in order to preserve the Conservation Values of the Property.



Under no circumstances shall Grantee approve any use that permits the destruction of any “significant conservation interest” as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs. or otherwise conflict with the conservation purposes of this Conservation Easement.

The intent of the use allowance set forth within this Section 2(D) within the Envelopes is for the purpose of making ownership of the Property economically viable and possibly creating a revenue stream to maintain the buildings and structures on the Property in good condition and repair.

In all events, the manner of undertaking any use or activity within the Envelopes shall not permit the destruction of any “significant conservation interest” as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs. or otherwise conflict with the conservation purposes of this Conservation Easement.

The construction, replacement and reconstruction of any building or other structure on the Property is prohibited except in accordance with this Section 2(D). It is the intent of this Section and Section 2(M) below that no buildings or other structures (except minor structures as provided in subsection (ii) of this Section below and fences as provided in subsection (iv) of this Section below) are permitted to be constructed, replaced, or reconstructed outside of the Envelopes.

All new construction and improvements shall be sited so as to cause the least disturbance to the Property’s Conservation Values and shall conform to the restrictions described in Section 2(E). Notwithstanding anything herein to the contrary, the total impervious surfaces within the Property shall not exceed two percent (2%) of the total acreage of the Property, provided that the impervious surface area that may exist within the Greenway expressly permitted in Section 2(F) below shall not be included as impervious surface for purposes of the foregoing calculation. For purposes of this Conservation Easement, the term “impervious surface” shall include: roof tops; asphalt surfaces; concrete surfaces; brick surfaces; stone surfaces; patios or decks (not including wood slatted decks, docks, or pervious pavers or patio system); retaining walls; concrete bases of solar panel installations; and all other surfaces that fully restrict the percolation of water into the soil. The term “impervious surface” shall not include compacted dirt or gravel surfaces or other surfaces that do not fully restrict the percolation of water into the soil.

Subject to the foregoing:

- (i) *Agricultural Structures & Improvements* - New buildings and other structures and improvements used or usable for agricultural or forestry purposes, including processing or sale of farm products predominantly grown or raised on the Property, may be built within the Envelopes.

No building or structure permitted pursuant to this subsection may exceed fifty (50) feet in height, measured from the original average grade of the structure’s locus to the ridgeline, chimneys included. Notwithstanding the foregoing, buildings and

structures existing as of the date of this Conservation Easement shall not be in violation of this provision so long as their height is not increased, and in the event such buildings and structures are damaged or destroyed as a result of an event outside of Grantor's control, such buildings and structures may be rebuilt to the same height as they exist as of the date of this Conservation Easement.

(ii) *Minor Structures* – Subject to the impervious surface area limitations set forth above, Grantor reserves the right to install minor, small-scale structures that are not served by utilities, with a height of no more than sixteen (16) feet measured from the original average grade of the structure's locus to the ridgeline, chimneys included, to enhance the opportunity for uses expressly permitted in Sections 2(A), 2(B), and 2(C). No minor structure outside the Envelopes shall have a footprint exceeding one hundred and forty-four (144) square feet.

Notwithstanding the foregoing, Grantor reserves the right to locate Removable Minor Improvements on the Property, provided that their location and use do not permit the destruction of any "significant conservation interest" as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs. or otherwise conflict with the conservation purposes of this Conservation Easement, and provided that the following applies to Removable Minor Improvements:

- (a) Removable Minor Improvement are not subject to the impervious square footage limitations set forth in this subsection 2(D)(ii). Notwithstanding the foregoing, in the event that a Removable Minor Improvement is, or is intended to be, located on the property outside of the Envelopes for more than fourteen (14) consecutive days, then: (i) Grantor shall give notice to Grantee of the location and identification of the Removable Minor Improvement, and (ii) the square footage of the footprint of such Removable Minor Improvement shall be included in and subject to the impervious surface area limitation set forth in this subsection 2(D)(ii) for minor structures.
- (b) For purposes of this Conservation Easement, "Removable Minor Improvement" means structures without permanent foundations and/or utilities, that are easily assembled, disassembled, and moved without heavy equipment, that are in fact removed from the Property periodically or seasonally, whose disturbance to vegetation and wildlife is minimal, and that are intended: for agricultural use; for horticultural use; and to support Agritourism and other uses permitted pursuant to Section 2(C). By way of example, without limitation, Removable Minor Improvements includes: "high tunnel" or "hoop houses" or other similar floorless, framed structures that cover crops or vegetation that are periodically removed to expose the soil surface; hunting and observation blinds; movable livestock sheds; and special event tents.
- (c) For purposes of this Conservation Easement, the term "Removable

Minor Improvement” shall include recreational vehicles, campers, and other similar self-propelled or towed vehicles (each, a “Recreational Vehicle”), provided that the Recreational Vehicle:

- i. is built on a single chassis, is 300 square feet or less when measured at the largest horizontal projection, and is intended to provide short-term recreational living accommodations, designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use;
- ii. is fully licensed and ready for highway use; and
- iii. is not attached to the Property other than by quick disconnect type utilities.

(d) The parties acknowledge that repeated and regular use of a portion of the Property by Recreational Vehicles (even periodically) has the potential to permit the destruction of a “significant conservation interest” as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs, and therefore, Grantee has the right to prohibit Recreational Vehicles from being located on or using portions of, or all of, the Property outside of the Envelopes if in the opinion of the Grantee, the location and use (including the periodic use) of such Recreational Vehicles in such locations: (a) adversely impact the water quality of any creek, river, stream, wetland or other water resource; (b) harm any threatened or endangered species; (c) destroy any “significant conservation interest” as that phrase is used in Treas. Reg. § 1.170A-14(e)(2); or (d) otherwise conflict with the conservation purposes of this Conservation Easement.

(iii) *Residential Dwellings on the Property* – Two habitable Residential Dwellings exist on the Property in the Envelopes at the time of this grant of this Conservation Easement as documented in the Baseline Documentation Report. For purposes of this Conservation Easement, the term “Residential Dwelling” shall mean a residential dwelling designed for residential use. Grantor reserves the right to maintain, repair, enlarge, renovate, rebuild or replace a maximum of two (2) Residential Dwellings in the Envelopes, inclusive of the existing Residential Dwellings. All Residential Dwellings permitted in the Envelopes are and shall always be located within the same tax parcel, and the Envelopes shall not be subdivided in any way. No Residential Dwelling on the Property shall exceed a footprint of four thousand and two hundred (4,200) square feet.

No Residential Dwelling permitted pursuant to this subsection may exceed forty (40) feet in height, measured from the original average grade of the structure’s locus to the ridgeline, chimneys included; provided that the Residential Dwellings existing as of the date of this Conservation Easement shall not be in violation of this provision so long as their height is not increased, and in the event such

Residential Dwellings are damaged or destroyed as a result of an event outside of Grantor's control, such Residential Dwellings may be rebuilt to the same height as they exist as of the date of this Conservation Easement.

(iv) *Fences* – Existing fences may be repaired and replaced, and new perimeter fences may be built, for purposes of reasonable and customary management of livestock and wildlife and to mark property boundaries, without the permission of Grantee. Fences for the purpose of protecting Waterways (as defined in Section 2(E)) on the Property are also permitted without prior consent of Grantee. Fences permitted pursuant to this provision shall blend with the natural surroundings to the extent practicable.

(v) *Utilities Services and Septic Systems* – Installation, maintenance, repair, replacement, removal and relocation of Utilities (as defined below) over or under the Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve structures located within the Envelopes as permitted herein, and the right to grant easements over and under the Property for such purposes, is permitted, provided that: such Utilities are sized and designed to serve the structures located within the Envelopes; such Utilities shall not be installed for purposes of facilitating development, use, or activities on an adjacent or other property; and any easements, contracts, and agreements with respect to such Utilities shall be made expressly subordinate to this Conservation Easement. All reasonable efforts shall be made to locate such Utilities (i) outside of the Water Quality Buffer, (ii) if possible, within fifty (50) feet of the roads permitted herein below and the driveways used to access the Envelopes in existence as of the date of this Conservation Easement as described in the Baseline Documentation Report and as depicted on the Plat and as may be installed as permitted in this Conservation Easement, and (iii) in all events in such a manner and location that minimizes the impact, as much as is reasonably possible, on the Conservation Values as set forth in this Conservation Easement. Except as expressly permitted herein, the construction of any other Utilities on the Property is prohibited without prior approval of Grantee, which approval shall take into account the impact of the new Utility on the aesthetic quality of the Property, water quality and other environmental issues, the value of the Property as an open space, any endangered or threatened species on the Property and such other considerations as Grantee shall deem just and proper in order to ensure that any new Utilities do not permit the destruction of any “significant conservation interest” as that phrase is used in Treas. Reg. § 1.170A-14(e)(2), or otherwise undermine the conservation purposes of this Conservation Easement. For purposes of this Conservation Easement, the term “Utilities” means electric, gas, and water lines and facilities, sanitary lines and storm sewers, septic systems, cisterns, wells, water storage and delivery systems, telephone and other communication services, satellite dishes, and renewable energy systems (including but not limited to solar energy devices on a permitted structure; geothermal heating and cooling systems, also known as ground source heat pump; wind energy devices; and other renewable energy systems that are not prohibited by governmental regulations); but does not include cellular or wireless

communication towers. Cellular and wireless communication towers, and similar commercial towers and antenna, are prohibited on the Property.

(vi) *Notice to Grantee* – Grantor is prohibited from proceeding with any site preparation, construction, substantial exterior alteration, replacement, relocation, or removal of any structure, building, improvement, or Utility described in Section 2(C) of this Conservation Easement without prior written approval from the Grantee. In requesting any such prior written approval, Grantor must notify Grantee in writing in accordance with the provisions of Section 9, including at a minimum, sufficient information to enable Grantee to determine whether the proposed plans are consistent with the terms of this Conservation Easement. Grantor shall provide Grantee with any additional information requested by Grantee that is necessary or proper in Grantee's evaluation of Grantor's proposed site preparation, construction, substantial exterior alteration, replacement, relocation, or removal of any structure described herein. In determining whether to approve Grantor's proposed site preparation, construction, substantial exterior alteration, replacement, relocation, or removal of any structure described herein, Grantee shall take into account the impact of such site preparation, construction, substantial exterior alteration, replacement, relocation, or removal of any structure described herein on: (a) the scenic value of the Property; (b) the value of the Property as an open space (including the impact of access roads or related traffic associated with any new improvements located on the Property); (c) the Property and surrounding area's environment, including but not limited to air and water quality issues; (d) any threatened or endangered species located in or near the Property; and (e) such other considerations as the Grantee shall deem proper in order to preserve the Conservation Values of the Property. Under no circumstances shall Grantee approve any site preparation, construction, substantial exterior alteration, replacement, relocation, or removal of any structure described herein that permits the destruction of any "significant conservation interest" as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs. or otherwise conflict with the conservation purposes of this Conservation Easement.

(E) *Surface Water Protection and Water Quality Buffer; Ponds*

There shall be no activities, pollution, or surface alteration that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation, and/or flow in or over the Property or into any surface waters, or cause soil degradation or erosion, including but not limited to any sort of diking, dredging, alteration, draining, or filling or removal of wetlands, except as a necessary part of restoring natural hydrology, enhancing wetlands, or improving water quality, as permitted by state and any other appropriate authorities, and then only after written approval is granted by the Grantee for such activities. For purposes herein, "surface waters" shall be defined as including but not limited to intermittent streams, perennial streams, lakes, ponds and estuaries. Provided, however, that the foregoing is not intended to prohibit the forest management and harvest activities allowed pursuant to Section 2(A), the agricultural and horticultural activities allowed pursuant to Section 2(B), the construction of structures and improvements

otherwise allowed pursuant to Section 2(D), the roads permitted pursuant to Section 2(F), and Pond maintenance and any activities reasonably required to prevent flooding or erosion as permitted pursuant to this Section 2(E).

Notwithstanding the foregoing, Grantor may undertake reasonable steps to prevent flooding or erosion as permitted by state and other applicable governmental authorities, and only after written approval of the Grantee.

Grantor and Grantee have designated water quality buffer areas as more fully described on **Exhibit B** attached hereto and incorporated herein (the "Water Quality Buffer"). Grantor may mark the boundaries of the Water Quality Buffer, and any question arising as to the boundaries of the Water Quality Buffer shall be resolved reasonably by Grantee based on the conservation purposes of this Conservation Easement. Commercial forestry, agricultural, horticultural and animal husbandry operations, grazing, timber removal, cutting, logging, and mowing or other disturbance or interference of native plants are prohibited within the Water Quality Buffer. The cutting or removal of trees or other vegetation, dead or alive, or the disturbance of other natural resources is prohibited except for removal of hazards to visitors, control of disease that would damage or reduce the significance of the Water Quality Buffer, removal of non-native plant species, reduction of fire fuel load after severe storm damage, trail clearance or maintenance, or for purposes of maintenance or restoration of natural communities or rare species populations in the Water Quality Buffer consistent with the conservation purposes of this Easement. Salvage timber cuts after a natural catastrophe will be allowed in Water Quality Buffer, but only with the prior consent of Grantee, and only in a manner that will contribute to the recovery of the prevailing natural conditions of the forest. Construction of roads, trails, and paths on the Property within the Water Quality Buffer is prohibited, except for (1) the maintenance of those unpaved paths that exist as of the date of this Conservation Easement as described in the Baseline Documentation Report, and (2) construction and maintenance of primitive foot paths limited to single file pedestrian traffic, and (3) construction and maintenance of the Greenway expressly permitted in Section 2(F) below. The unpaved paths may not be widened or covered with asphalt or other impervious materials. Construction of buildings, structures, and improvements (including but not limited to minor structures and fences) within the Water Quality Buffer is prohibited.

Prior to engaging in any activity outside of the Water Quality Buffer that may result in the degradation of Water Quality Buffer, the Grantor agrees to consult with the Grantee and/or appropriate governmental agencies to ensure that any potential degradation is avoided or minimized.

As of the date of this Conservation Easement, one man-made pond ("Pond") and one man-made dam ("Dam") exists on the Property, as documented in the Baseline Documentation Report and as identified as "Pond" on the Survey. Notwithstanding any other term contained in this Conservation Easement, and notwithstanding that the Pond is located within the Water Quality Buffer, Grantor reserves the right to mow and clear vegetation around the Pond.

Grantor and Grantee acknowledge that the existence of the Dam and Pond create habitat and water levels that are different than those that existed prior to the installation of the Dam. Grantor reserves the right to reconstruct, replace, demolish, or remove the Dam and Pond (or either of them) (collectively, "Dam and Pond Work"). In the event that Grantor desires to undertake any Dam and Pond Work, Grantor shall prepare, in consultation with Grantee, a plan to reconstruct, replace, demolish, or remove the Dam ("Pond Restoration and Management Plan") consistent with the purposes of this Conservation Easement. Grantor and Grantee acknowledge that the Dam and Pond Work may: (i) temporarily or permanently alter the condition of the Property as it exists on the date of this Conservation Easement; (ii) impact the habitat for wildlife or plants or similar ecosystem, as it exists on the date of this Conservation Easement; (iii) alter the natural water levels, drainage, sedimentation, or flow in or over the Property, as it exists as of the date of this Conservation Easement; or (iv) require diking, dredging, alteration, draining, filling, or removal of wetlands or the Pond. Notwithstanding the foregoing, the Dam and Pond Work shall not constitute a violation of this Conservation Easement, provided that: (a) all Dam and Pond Work shall be completed in accordance with applicable permits and best management practices for the maintenance, reconstruction, replacement, demolition, or removal (as applicable) of dams; (b) Grantee has given Grantor prior written approval of the Pond Restoration and Management Plan; (c) the Dam and Pond Work shall be subject to the same notice and review requirements set forth above in Section 2(D)(vii); (d) to the extent practical, the Dam and Pond Work shall be completed in an ecologically beneficial manner; and (e) in the event the Dam and Pond Work involves removal of the Dam, it shall be done in a manner that reestablishes a natural flow regime and promotes a healthy, functioning ecosystem, using then-current industry knowledge that maximizes the long-term beneficial environmental effects, including the well-being of water quality and habitat on the Property. If the Dam is breached or at risk of failure, Grantor shall promptly notify Grantee of the failure or risk of failure. Grantor further reserves the right to undertake daily maintenance of the Pond and Dam, including but not limited to managing drainage, treating and controlling algae, and removing large woody debris, provided that the manner of undertaking such maintenance shall be consistent with the purposes of this Conservation Easement. Routine maintenance of the Pond and Dam is not required to be part of a Pond Restoration and Management Plan.

Grantor reserves the right to use the Pond for crop irrigation to support agricultural and horticultural use expressly allowed by this Conservation Easement irrigation and/or for livestock watering, subject to the prior approval of Grantee and provided that such use is: consistent with the purposes of this Conservation Easement; in compliance with the rules, regulations, and guidance of the Soil and Water Conservation District; and in accordance with the Conservation Plan developed in consultation with the Soil and Water Conservation District. Under no circumstances shall Grantee approve the use of the Pond for irrigation or livestock watering if such use would permit the destruction of any "significant conservation interest" as that phrase is used in Reg. Section 1.170A-14(e)(2), Income tax regs. or otherwise conflict with the conservation purposes of this Conservation Easement.

(F) *Construction and Maintenance of Roads*

Subject to Section 2(D) above, construction and maintenance of unpaved farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this Conservation Easement are permitted with the prior written approval of Grantee as to location and width. No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material without the advance written permission of the Grantee. For the purposes of this Conservation Easement, gravel shall not be considered an impervious material. In determining whether to grant permission as provided in this Section, Grantee shall take into account the impact of the new road on the aesthetic quality of the Property, water quality and other environmental issues, the value of the Property as an open space, any endangered or threatened species on the Property and such other considerations as Grantee shall deem just and proper in order to ensure that any new road and/or utilities do not permit the destruction of any "significant conservation interest" as that phrase is used in Treas. Reg. § 1.170A-14(e)(2), or otherwise undermine the conservation purposes of this Conservation Easement.

Notwithstanding any other term contained in this Conservation Easement, one (1) corridor of protected open space managed for conservation and recreation purposes, also known as a greenway ("Greenway") is permitted on the Easement Area, provided that (i) it is part of a local governmental initiative; (ii) any impervious surface within the Greenway is no more than ten (10) feet wide; (iii) located a minimum distance of 100 feet from the top of bank of any surface waters on the Easement Area, except where reasonably necessary to accommodate reasonable stream crossings; and (iv) in all events, the Greenway shall be located and the area improved to accommodate the Greenway in such a manner and location as is reasonably possible to minimize the impact on the Conservation Values as set forth in this Conservation Easement.

(G) *Excavation, Dredging, or Mineral Use*

There shall be no filling, excavation, dredging, mining, or drilling which materially affects the topography of the land or is detrimental in any material way to the flora and fauna on the Property, no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner except as necessary to allow permitted uses set forth in Section 2(B) above, to allow the construction of the improvements allowed in Section 2(D) above, for the purpose of combating erosion or flooding as allowed in Section 2(E) above, to allow the construction of roads allowed in Section (F) above, and for the maintenance of existing roads, hiking and horseback trails as documented in the Baseline Documentation Report.

(H) *Signage*

No signs or billboards or other advertising displays are allowed on the Property, except signs whose placement, number and design do not diminish the scenic character of the Property may be displayed to identify trails and the Conservation Values of the Property, to identify the name and address of the Property and the names of persons living on the



Property, to give directions, to advertise or regulate permitted uses of the Property and prescribe rules and regulations for recreational use of the Property, to advertise the Property for sale or rent, and to post the Property against trespassers. The face of signs permitted pursuant to this provision may not exceed nine (9) square feet without the prior written approval of Grantee, which approval shall not be unreasonably withheld. Signs permitted pursuant to this provision shall not exceed fourteen (14) feet in height above ground level.

(I) *No Biocides*

Except in accordance with this section, there shall be no use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides, except as to control invasive species detrimental to the Conservation Values of the Property. Agricultural and silvicultural use of biocides is allowed, if prescribed in the Conservation Plan, the Forest Management Plan, or with prior written approval by Grantee.

(J) *No Dumping or Storage*

There shall be no storage or dumping of trash, garbage, abandoned vehicles or vehicle parts, rubbish, debris, junk, waste, contaminated soil, or other unsightly or offensive material, hazardous substance, or toxic waste on the Property; provided, however, the storage of agricultural products, byproducts (including the composting of biodegradable material for use on the Property) and agricultural equipment on the Property is allowable so long as such storage is done in accordance with all applicable government laws and regulations and in such a manner so as to not impair the Conservation Values of the Property. Grantor shall, insofar as may be reasonable, make a good faith effort to keep the Property in a clean state, free of unsightly debris, trash and abandoned goods.

(K) *Predator Control*

Grantor shall have the right to control, destroy, or trap predatory and problem animals that pose a material threat to forestry, agriculture, drainage, livestock and/or humans by means and methods approved by applicable federal, state, and local laws, regulations, and requirements. The method employed shall be selective and specific to individuals, rather than broadcast, nonselective techniques.

(L) *Commercial Development*

Except as expressly permitted herein, any commercial or industrial use of or activity on the Property is prohibited.

Grantee shall have the right in its sole discretion to approve the establishment and conduct of non-agricultural commercial and industrial uses or activities that Grantee determines in its sole discretion (a) are compatible with the purposes of this Conservation Easement, (b) will not substantially diminish or impair the agricultural productivity of the Property, and (c) can be reasonably accommodated with only a de minimis adverse impact on the Conservation Values of the Property.

Grantor desires to qualify this Conservation Easement for estate tax exclusion under § 2031(c) of the Internal Revenue Code. In order to qualify this Conservation Easement for treatment under, and as required by, Internal Revenue Code Section 2031(c)(8)(B), notwithstanding anything in this Conservation Easement to the contrary, this Conservation Easement hereby prohibits more than a de minimis use of the Property for commercial recreational activity.

(M) *Development Rights*

With the exception of buildings permitted in Section 2(D), all housing, commercial and industrial 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 transmitted to any portion of the Property, as it now or hereafter may be bound or described, or to any other property.

(N) *Subdivision*

The subdivision of the Property, whether by physical or legal processes, is prohibited. The Property shall remain in unified ownership, which may be joint or undivided, but without division, partition, subdivision, or other legal or de facto creation of lots or parcels in separate ownership.

The parties acknowledge that the Conservation Easement allows for multiple Residential Dwellings as provided in Section 2(D)(iii). For the avoidance of doubt, in the event that governing law requires subdivision in order for permits to be issued to construct more than one (1) Residential Dwelling on the Property and the applicable governing authority does not grant a waiver or variance of such subdivision requirement, there shall only be one (1) Residential Dwelling on the Property.

3. ADDITIONAL RIGHTS RETAINED BY GRANTORS

Grantor retains the following rights:

(A) *Existing Uses*

The right to undertake or continue any activity or use of the Property not prohibited by this Conservation Easement so long as it does not detract or impair the Conservation Values of the Property.

(B) *Transfer*

The right to sell, give, mortgage, lease, or otherwise convey the Property subject to the terms of this Conservation Easement. Grantor shall be required to disclose this Conservation Easement in full in connection with any rental or lease of all or any portion of the Property.

4. GRANTEE'S RIGHTS

To accomplish the purpose of this Conservation Easement, the following rights are granted to Grantee by this Conservation Easement:

(A) *Right to Protect*

The right to preserve and protect the Conservation Values of the Property and enforce the terms of this Conservation Easement.

(B) *Right of Entry*

Grantee, its employees, representatives, and agents and its successors and assigns, have the right, after prior written notice to Grantor, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether Grantor, its representatives, assigns, heirs and successors are complying with the covenants and purposes of this Conservation Easement and to inspect for violations.

5. RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED

Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibilities on Grantor, or in any way to affect any existing obligation of Grantor as owner of the Property. Among other things, this shall apply to:

(A) *Taxes and Assessments*

Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.

(B) *Upkeep and Maintenance*

Grantor shall be solely responsible for the upkeep, operation, and maintenance of the Property, to the extent it may be required by law. Grantee shall have no obligation for the upkeep, operation, or maintenance of the Property.

6. ACCESS

No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement. However, the public has the right to view the Property from adjacent publicly accessible areas such as public roads and waterways. Notwithstanding the above, nothing herein shall prohibit the construction of a Greenway in accordance with Section 2(F) that may be accessed by the public, subject to the terms of this Conservation Easement.

7. ENFORCEMENT

Grantee shall have the right to prevent and correct violations of the terms of this Conservation Easement in accordance with the following terms:

(A) If Grantee determines that Grantor is in violation of the terms of this Conservation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or if the violation cannot reasonably be cured within said period, fails to commence to cure such violation within the thirty (30) day period, and thereafter to diligently prosecute the cure to completion, Grantee may bring an action at law or in equity to enforce the terms of this Conservation Easement, to enjoin the violation by temporary and/or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, and to require the restoration of the Property to the condition that existed prior to any such injury. The failure of Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time. Grantee shall also be entitled to recover all reasonable attorneys' fees, court costs, and other expenses incident to enforcement of this Conservation Easement.

(B) If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purpose of this Conservation Easement, and Grantor agrees not to proceed with the use or activity pending resolution of the dispute, either party shall cause the dispute to be mediated by request made in writing upon the other. Within thirty (30) days of the receipt of such a request, the parties shall select a single mediator to mediate the matter. If the parties are unable to agree on the selection of a single mediator, either or both may request the Senior Resident Judge of the Superior Court of Wake County, without the necessity of filing an action, to appoint a mediator. The matter shall then be mediated in accordance with the then current Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions that were first adopted by the Supreme Court in 1991, pursuant to [N.C. Gen. Stat. § 7A-38.1](#). To the extent the said Rules do not apply, the Mediator may set the rules, including the time and place for the mediation, and other such matters, in accordance with the practice that is customary in Wake County, North Carolina. In the event the mediation is unsuccessful, either party may proceed with litigation in a court of competent jurisdiction. All costs of said mediation shall be divided equally between Grantor and Grantee. It is the intent of this paragraph that such litigation may not be commenced until pre-litigation mediation is attempted by the parties so long as Grantor agrees not to proceed with the use or activity pending resolution of the dispute.

(C) Notwithstanding any other provision in this Section, in the event that Grantee reasonably determines that a violation of the terms of this Conservation Easement occurs or threatens to occur and that such violation would cause immediate and irreparable injury for which Grantee would have no adequate remedy at law, Grantee may immediately and without notice bring an action at law or in equity to enforce the terms of this Conservation

Easement, to enjoin the violation by temporary and/or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, and to require the restoration of the Property to the condition that existed prior to any such injury.

(D) Grantor waives any bond requirement otherwise applicable to any petition for injunctive relief sought by Grantee to enforce its rights with respect to the Property.

(E) Grantee has the right in its sole discretion to allow minor deviations of express height, width, footprint, and area limitations in connection with the construction or installation of buildings and other improvements, and to allow de minimis encroachments of improvements within the Water Quality Buffer, provided that Grantee determines in its sole discretion that (i) the allowed deviation or encroachment is compatible with the purposes of this Conservation Easement, and (ii) the allowed deviation or encroachment will not harm the Conservation Values of the Property.

(F) In the event that the Grantee fails to enforce any of the terms of this Conservation Easement, as determined in the discretion of Wake County, Wake County shall have the right to enforce the terms of this Conservation Easement through any and all authorities available under federal or state law.

In the event Wake County exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Conservation Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. Wake County is entitled to recover any and all administrative and legal costs associated with any enforcement of this Conservation Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the Conservation Easement against the Grantor up to the amount of Wake County's contribution to the purchase of the Conservation Easement.

The Grantee will annually monitor compliance and provide Wake County with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the Conservation Easement. If the annual monitoring report is insufficient or is not provided annually, or if Wake County has a reasonable and articulable belief of an unaddressed violation, Wake County may exercise its right of inspection. For purposes of inspection and enforcement of the Conservation Easement, and the Wake County Funding Agreement with the Grantee, Wake County will have reasonable access to the Property. Prior to its inspection of the Property, Wake County shall provide advance notice to Grantee and Grantor and provide Grantee and Grantor a reasonable opportunity to participate in the inspection.

## 8. ACTS OF THIRD PARTIES.

Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring

any action against Grantor for any injury to or change in the Property resulting from (a) acts of third parties legally authorized to act by recorded instrument or other legally established rights to which this Conservation Easement is subject; (b) the wrongful acts of third parties other than Grantor's agents, employees, invitees or contractors (provided the Grantor has taken reasonable actions to prevent such third parties from trespassing and from causing harm to the Property and has not authorized, consented to or participated in the acts of such third parties); or causes beyond Grantor's control, including without limitation, fire, flood, storm, and earth movement, or from prudent actions taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, property damage, or harm to the Property resulting from such causes. Grantor shall notify Grantee of any act or occurrence that would adversely affect or interfere with the purpose of this Conservation Easement, whether caused by the Grantor's acts or omissions or by a third party or parties or causes beyond Grantor's control. In the event of a violation of this Conservation Easement caused by the wrongful acts of a third party, Grantor shall cooperate fully with Grantee in enforcement of this Conservation Easement, including but not limited to: gathering facts and information relevant to the violation; assigning its right of action to the Grantee; joining in any claim or legal action; and/or appointing the Grantee as its attorney-in-fact for purposes of enforcement, all at the election of the Grantee. In the event that such third party acts interfere with the purposes of this Conservation Easement and/or Conservation Values of this Conservation Easement, Grantor and Grantee will work together to identify restoration or rehabilitation activities and develop a restoration plan. This Section shall not be construed to relieve Grantor of the obligation to clean up garbage or materials dumped on the Property by third parties, to take all reasonable actions to prevent violations of this Conservation Easement by third parties, or to otherwise maintain the Property in a condition consistent with the purpose of this Conservation Easement. Nothing in this Section shall prohibit Grantee from bringing an action against Grantor resulting from Grantor's failure to take reasonable actions to prevent violations of this Conservation Easement by third parties or from Grantor's authorization, consent, or participation in the wrongful acts of third parties resulting in violations of this Conservation Easement.

9. NOTICE OF INTENTION TO UNDERTAKE CERTAIN PERMITTED ACTIONS.

Grantor shall notify Grantee before undertaking any use or change in use of the Property pursuant to Sections 2(A), 2(B)(ii), 2(B)(iii), 2(D), 2(E), 2(F), and 2(H) above which may have adverse impact on the Conservation Values of the Property. Uses described in the Baseline Documentation Report, and in any Conservation Plan, Harvest Plan, and/or Forest Management Plan delivered to Grantee pursuant to the terms of this Conservation Easement, shall constitute proper notice for purposes of the foregoing sentence. The purpose of this notice requirement is to comply with the provisions of Treas. Reg. § 1.170A-14(g) (5) (ii), in order to allow Grantee a reasonable period to consider the prospective impact to the extent Grantee deems appropriate.

(A) *Notices to Grantee*

- (i) *Means of Notice* – Any notices to Grantee required in this Conservation Easement shall be sent by registered or certified mail, or other courier providing reliable proof of delivery, to Triangle Land Conservancy's Easement Steward at the address for Grantee in the caption of this Conservation Easement, or such other

person or address as may be hereafter specified by notice in writing. All other communication shall be made by reasonable means under the circumstances, provided that electronic communication will not be deemed received unless accompanied by delivery by one of the foregoing methods.

(ii) *Consent of Notice* – The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in Sections 2(A), 2(B)(ii), 2(B)(iii), 2(D), 2(E), 2(F), and 2(H) above, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designated and carried out in a manner consistent with the terms and Purposes of this Conservation Easement. Such notices to Grantee or requests for Grantee consent, required or contemplated hereunder, must include, at a minimum, sufficient information, including the nature, scope, design, location, timetable, and any other material aspect of the proposed activity, in sufficient detail to enable Grantee to determine whether proposed plans are consistent with the requirements of this Conservation Easement and the purposes hereof.

(iii) *Process of Notice and Approval* – Whenever notice to Grantee is required, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the requirements and purpose of this Conservation Easement. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore.

(iv) *Failure to Respond* – If Grantee approval is required under the terms of this Conservation Easement prior to the exercise of a reserved right that is the subject of the notification and request for approval, failure of Grantee to respond within sixty (60) days shall be deemed to be a denial of the request for approval.

(v) *Transfer of Ownership* – Grantor further agrees to give written notice to Grantee of the transfer of any interest in the Property, including but not limited to any sale, gift, or long-term lease, at least thirty (30) days prior to the date of such transfer.

(B) *Notices to Grantor*

(i) *Means of Notice* – Any notices to Grantor required by this Conservation Easement shall be sent by registered or certified mail or other courier providing reliable proof of delivery, to Grantor at the address set forth in the caption hereof, or to such other person or address as may be hereafter specified by notice in writing to Grantee. All other communication shall be made by reasonable means under the circumstances.

10. TRANSFER OF EASEMENT

The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable; provided, however, that Grantee's interest in this Conservation Easement (a) may only be transferred or assigned to an organization (i) that is a qualified organization as that term is defined under Section 170(h)(3) of the Internal Revenue Code, as amended, or any successor section, and the regulations promulgated thereunder which is organized or operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code and (ii) that is authorized to acquire and hold conservation easements under the Conservation and Historic Preservation Agreements Act, or any successor provision thereto, and (b) may not be assigned to a governmental entity without the prior written consent of Grantor. The parties further covenant and agree that the terms of the transfer or the assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance as set forth in the recitals above, which recitals are incorporated herein by this reference. Grantee, its successors or assigns, hereby covenants and agrees to monitor and observe the Property in perpetuity for the purposes set forth in this Conservation Easement.

#### 11. TRANSFER OF PROPERTY

Any time the Property itself, or any interest in it, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee in writing at least thirty (30) days prior to the transfer of the Property (except where otherwise expressly stated). **IN THE EVENT OF ANY CONVEYANCE OF ANY INTEREST IN THE PROPERTY, GRANTOR, ITS SUCCESSORS AND ASSIGNS SHALL IDENTIFY THIS CONSERVATION EASEMENT AS AN EXCEPTION IN ANY DEED OR OTHER INSTRUMENT OF CONVEYANCE.**

#### 12. AMENDMENT OF EASEMENT

This Conservation Easement may be amended only with the written consent of Grantor and Grantee. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall comply with Section 170(h) of the Internal Revenue Code, and any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with the Uniform Conservation and Historic Preservation Agreement Act, N.C.G.S. § 121-34 et.seq. and any regulations promulgated pursuant to that law. Grantor and Grantee have no right or power to agree to any amendment that would affect the enforceability of this Conservation Easement, significantly impair Conservation Values, or be inconsistent with the purposes of this Conservation Easement. Any such amendment or modification must be executed by both Grantor and Grantee and shall be recorded in the public registry of Wake County.

#### 13. TERMINATION OF EASEMENT

If it is determined that conditions on or surrounding the Property have changed so much that it is impossible to fulfill the conservation purposes set forth above, a court with jurisdiction may, at the joint request of both Grantor and Grantee, terminate this Conservation Easement. Notwithstanding the foregoing, in entering into 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 in the future be put entirely to



such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under this Conservation Easement shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment. It is the intent of both Grantor and Grantee that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment or amendment of this Conservation Easement.

In the event that all or part of the Property is taken, or threatened to be taken, by exercise of eminent domain by public, corporate, or other authority, or by negotiated sale in lieu of condemnation, the Grantor shall immediately give notice to Grantee and shall take all appropriate actions related to such taking or negotiated sale in coordination with and with the consent of the Grantee, to recover the full value of the taking and all incidental or direct damages resulting from the taking. If condemnation of a part of the Property or of the entire Property by public authority renders it impossible to fulfill any of the conservation purposes of this Conservation Easement, then this Conservation Easement may be terminated through condemnation proceedings.

At the time of conveyance of this Conservation Easement to Grantee, this Conservation Easement gives rise to a real property right, immediately vested in Grantee. If the Conservation Easement or part thereof is terminated and the Property is sold or taken for public use, then, as required by Treas. Reg. § 1.170A-14(g)(6), Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Property, as these values are determined on the date of this Conservation Easement (“Proportionate Share”).

After Grantee has received its Proportionate Share, Grantee shall pay an amount to Wake County equal to the percentage that the value of Wake County’s cash payments for the purchase of this Conservation Easement (as stated above) represent of the Proportionate Share. All of the Proportionate Share shall be used by Grantee and Wake County in a manner that is consistent with the Conservation Purposes.

Until such time as Grantee and Wake County receive their share of the Proportionate Share, they shall each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. The lien provided for in this paragraph shall be subordinate to the other provisions of this Conservation Easement.

Grantee shall use all proceeds distributed to it under this Section in a manner consistent with the conservation purposes of this Conservation Easement.

#### 14. INTERPRETATION

This Conservation Easement shall be interpreted under the laws of North Carolina, resolving any ambiguities and questions of the validity of specific provisions as to give maximum effect to its conservation purposes.

#### 15. INDEMNIFICATION

Grantor agrees to protect, defend, indemnify and hold harmless Grantee from and against any and all actions, liabilities, damages, fines, penalties, costs, claims and expenses, including but not limited to reasonable attorneys' fees, arising from or related to any personal injury, accident, negligence or damage relating to the Property, or any claim thereof, except to the extent due to the negligence of Grantee or its agents, contractors or employees. Grantor's indemnification of Grantee shall be construed broadly to extend to the indemnification of Grantee for loss, claims or damage suffered by Grantee as a result of the environmental condition of the Property, and as a result of violations of any federal, state, or local laws, ordinances and regulations, including violations of Environmental Laws. In the event that Grantor elects to open any portion of the Property to the public, Grantor's liability extends to indemnification of Grantee for loss, claims, or damages suffered by Grantee as a result of any failure of the Property to comply with all applicable laws, ordinances, and regulations.

16. TITLE

Grantor covenants and represents: that Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement; and that Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement.

17. ENVIRONMENTAL CONDITION

Grantor warrants that Grantor is in compliance with, and will remain in compliance with, all applicable Environmental Laws (as defined herein). Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Laws relating to the operations or conditions of the Property. Grantor covenants, represents and warrants, without investigation, that it has no actual knowledge of a release or threatened release of Hazardous Materials on the Property in violation of applicable Environmental Laws.

"Environmental Laws" means any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governing authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication noise, radioactive material, resource protections, inland wetlands and watercourses, health protection, and similar environmental health, safety, building and land use as may not or at any time hereafter be in effect. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment.

18. SEVERABILITY

Invalidity of any of the covenants, terms or conditions of this Conservation Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

19. PARTIES

Every provision of this Conservation Easement that applies to Grantor or Grantee shall also apply to their respective heirs, executors, administrators, assigns, and all other successors as their interest may appear.

20. RE-RECORDING

In order to ensure the perpetual enforceability of this Conservation Easement, Grantee is authorized to re-record this instrument or any other appropriate notice or instrument; for such purpose, Grantor appoints Grantee as Grantor's attorney-in-fact to execute, acknowledge, and deliver any necessary instrument on Grantor's behalf. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request.

21. MERGER

The parties agree that, because of the public interest in the enforcement of this Conservation Easement, the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

22. SUBSEQUENT LIENS ON PROPERTY

No provisions of this Conservation Easement should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, providing that any mortgage or lien arising from such a borrowing is subordinate to this Conservation Easement.

23. ESTOPPEL CERTIFICATES

Upon request by Grantor, Grantee shall within thirty (30) days of written request by Grantor execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Conservation Easement and otherwise evidences the status of this Conservation Easement, as may be reasonably requested by Grantor; provided, however, that such estoppel shall be restricted to the actual knowledge of Grantee and shall in no event be deemed a waiver of any violations by Grantor of the terms of this Conservation Easement.

24. ENTIRE AGREEMENT; COUNTERPARTS

This instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to this Conservation Easement, all of which are merged herein. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all parties; each

counterpart shall be deemed an original instrument as against the party who has signed it.

25. NO FORFEITURE

Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

26. TERMINATION OF RIGHTS AND OBLIGATIONS

A party's rights and obligations under this Conservation Easement shall terminate upon the transfer of the party's interest in this Conservation Easement or Property to a party assuming its obligations hereunder, except that liability for acts or omissions occurring prior to transfer shall survive transfer, but this Conservation Easement shall not be affected by such transfer, the transferee having the rights and obligations of the transferring party.

27. DISCLAIMER

Grantee does not represent the interests of Grantor. Grantee has advised Grantor to have this Conservation Easement reviewed by Grantor's attorney, and Grantor has had ample opportunity to do so. Grantee makes no representation as to whether this Conservation Easement qualifies for a charitable deduction or if it is in proper form for that purpose, in the event that the Grantor claims a charitable gift deduction on its federal or state income tax returns.

28. SUCCESSOR LIMITATION

If Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code, or to be authorized to acquire and hold conservation easements under N.C.G.S. § 121-34 et seq., and a prior assignment is not made pursuant to Section 9 above, then Grantee's rights and obligations under this Conservation Easement shall become immediately vested in such organization as a court of competent jurisdiction shall direct pursuant to North Carolina law and with due regard to the requirements for an assignment pursuant to said Section 9.

29. ACCEPTANCE AND EFFECTIVE DATE

As attested by the signature of its authorized representatives affixed hereto, Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Conservation Easement. This Conservation Easement is to be effective the date recorded in the Wake County Registry of Deeds.

TO HAVE AND TO HOLD, this grant of Conservation Easement and development rights, together with all appurtenances and privileges belonging or in any way pertaining thereto, unto the Triangle Land Conservancy, its successors and assigns forever.

*[Remainder of Page Intentionally Blank; Signature Pages to Follow]*

IN WITNESS WHEREOF, Grantor and Grantee, intending to legally bind themselves, have set their hands and seals on the date first written above.

GRANTOR:

By: \_\_\_\_\_ (Seal)

Name: Thurman W. Johnson

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I certify that the following persons personally appeared before me this day, acknowledging to me that he signed the foregoing document: Thurman W. Johnson.

Date \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary

(Official Seal)

\_\_\_\_\_  
Notary's printed or typed name

My commission expires: \_\_\_\_\_

By: \_\_\_\_\_ (Seal)

Name: Jan. J. Johnson

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I certify that the following persons personally appeared before me this day, acknowledging to me that he signed the foregoing document: Jan J. Johnson.

Date \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary

(Official Seal)

\_\_\_\_\_  
Notary's printed or typed name

My commission expires: \_\_\_\_\_

GRANTEE:

Triangle Land Conservancy,  
a North Carolina nonprofit corporation

By: \_\_\_\_\_  
Sandra J. Sweitzer, Executive Director

NORTH CAROLINA  
\_\_\_\_\_ COUNTY

I certify that the following persons personally appeared before me this day, acknowledging to me that she signed the foregoing document: Sandra J. Sweitzer.

Date \_\_\_\_\_

\_\_\_\_\_  
Official Signature of Notary

(Official Seal)

\_\_\_\_\_  
Notary's printed or typed name

My commission expires: \_\_\_\_\_

ACCEPTANCE OF LIMITED PROPERTY INTEREST BY WAKE COUNTY

Wake County hereby accepts and approves the foregoing Conservation Easement Deed, and the rights conveyed therein.

By: \_\_\_\_\_  
Susan P. Evans  
Chair, Wake County Board of Commissioners

Attested: \_\_\_\_\_  
Name: \_\_\_\_\_  
\_\_\_\_\_ Clerk of the Wake County Board of Commissioners

NORTH CAROLINA  
COUNTY OF WAKE

WAKE COUNTY  
ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the said County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged that she is the \_\_\_\_\_ Clerk of the Wake County Board of Commissioners, and by authority duly given and as the act of said Board, the foregoing instrument was signed by its Chair of the Wake County Board of Commissioners, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Clerk.

Witness my hand and official stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

Being all of that certain tract of land lying and being situated in Little River Township, Wake County, North Carolina, and being more particularly described as follows:

Being all of that certain tract or parcel of land containing approximately 33.092 acres, as shown on map entitled "Property of Thurman R. Johnson and Jan J. Johnson, Conservation Easement Survey for Triangle Land Conservancy", prepared by Williams-Pearce and Assoc., dated December 17, 2024, and recorded in Book of Maps \_\_\_\_, Page \_\_\_\_, Wake County Registry; reference to said map hereby made for a greater certainty of description.



**EXHIBIT B**  
**LEGAL DESCRIPTION OF BUILDING ENVELOPES**

**Residential Building Envelope**

BEING all of that approximately 2.803 acres designated as “Residential Building Envelope” on that certain map entitled “Property of Thurman R. Johnson and Jan J. Johnson, Conservation Easement Survey for Triangle Land Conservancy”, prepared by Williams-Pearce and Assoc., dated December 17, 2024, and recorded in Book of Maps \_\_\_\_, Page \_\_\_\_, Wake County Registry; reference to said map hereby made for a greater certainty of description.

**Farmstead Building Envelope A**

BEING all of that approximately 2.717 acres designated as “Farmstead Building Envelope A” on that certain map entitled “Property of Thurman R. Johnson and Jan J. Johnson, Conservation Easement Survey for Triangle Land Conservancy”, prepared by Williams-Pearce and Assoc., dated December 17, 2024, and recorded in Book of Maps \_\_\_\_, Page \_\_\_\_, Wake County Registry; reference to said map hereby made for a greater certainty of description.

**Farmstead Building Envelope B**

BEING all of that approximately 0.163 acres designated as “Farmstead Building Envelope B” on that certain map entitled “Property of Thurman R. Johnson and Jan J. Johnson, Conservation Easement Survey for Triangle Land Conservancy”, prepared by Williams-Pearce and Assoc., dated December 17, 2024, and recorded in Book of Maps \_\_\_\_, Page \_\_\_\_, Wake County Registry; reference to said map hereby made for a greater certainty of description.

**EXHIBIT C**  
**LEGAL DESCRIPTION OF WATER QUALITY BUFFER**

BEING all of that approximately \_\_\_\_\_ acres designated as “Water Quality Buffer” on that certain map entitled “Property of Thurman R. Johnson and Jan J. Johnson, Conservation Easement Survey for Triangle Land Conservancy”, prepared by Williams-Pearce and Assoc., dated December 17, 2024, and recorded in Book of Maps \_\_\_\_, Page \_\_\_\_, Wake County Registry; reference to said map hereby made for a greater certainty of description.