



Contains options for both Private and Government entity managing the underlying limited fee lands. State Forest Legacy Program holds the conservation easement. Purpose of the agreement: 1) Long term timber management, 2) Preserve working forest landscapes; 3) Maintain forest condition for habitat and water quality; and 4) Allow flexibility for future changes in social needs and forest management technology. Needs cover sheet to record.

## CONSERVATION EASEMENT DEED

This Conservation Easement Deed (“Easement”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”), by \_\_\_\_\_, [a non-profit conservation organization] [a \_\_\_\_\_ corporation] [a municipality] [a \_\_\_\_\_ partnership] [husband and wife], Grantor, and the State of Washington, acting by and through the Department of Natural Resources, Grantee.

WHEREAS, Grantor is the owner of certain real property located in [name] County, Washington which is legally described in Exhibit A (the “Property”), and displayed on the map attached as Exhibit B; and

WHEREAS, Grantee desires to put into effect the provisions of the Forest Legacy Program upon the Property, the purposes of which include protecting environmentally important forested lands that are threatened by conversion to non-forest uses; promoting forest land uses, including timberland management, timber production, the sale of other forest products, and protecting forest landscapes; and meeting multiple conservation opportunities, including protecting important scenic, cultural and recreational resources, fish, wildlife, riparian areas, and other ecological values (“Conservation Values”); and

WHEREAS, the State of Washington has the authority to obtain interests in real property for the purpose of conservation, protection, and preservation under RCW 64.04.130, and in accordance with the provisions of the Forest Legacy Program authorized by the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. § 2101), as amended by section 1217 of Title XII of the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101-624; 16 U.S.C. § 2103c) and section 374 of Title III of the Federal Agriculture Improvement and Reform Act of 1996 (P.L. 104-127), and the accompanying *Forest Legacy Program Implementation Guidelines*, dated May 2017 (“Guidelines”); and

WHEREAS, the Conservation Values of the Property are documented in an inventory of relevant features of the Property (“Baseline Documentation”), dated \_\_\_\_\_, on file at the Department of Natural Resources, which includes reports, maps, photographs, and other documentation that the parties agree provides, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective, though non-exclusive, information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, the parties intend to allow continuation of existing uses of the Property, as specifically identified in this Easement, that do not significantly impair or interfere with the conservation objectives of this easement;

NOW, THEREFORE, in consideration of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) and other good and valuable consideration, receipt of which is hereby acknowledged, the Grantor does hereby grant, convey and warrant to Grantee, subject to the covenants, easements, reservations, restrictions, and other title exceptions described on Exhibit (collectively, the “Permitted Exceptions”), an easement in perpetuity over, in, and upon the Property.

## **PART I AUTHORIZED USES BY GRANTOR**

**1.1 General Reservations.** Subject to the limitations set forth in this Easement, Grantor reserves the right to use the Property for the following purposes:

- a. Ingress and egress;
- b. Commercial and noncommercial forestry, as more particularly described in subsection 1.2;
- c. Fire prevention and firefighting, including the right to construct, use, and maintain roads and trails, draw water, and employ other measures as reasonably necessary to suppress, control, prevent, extinguish, and fight wildfires;
- d. Road use, construction, and maintenance under easements, matters of record, prescriptive rights, unrecorded roadway use agreements disclosed to Grantee before the Effective Date, and access rights granted by Grantor in the ordinary course of Grantor’s commercial forestry business;
- e. Recreation and education, including the right to construct improvements such as trails, primitive camping sites, outhouses, composting toilets, interpretive signs, directional signs, railings, walkways, wildlife observation stands or blinds, septic systems, water and utility services and systems, paved roads, and other similar improvements and appurtenant facilities;
- f. Sell, lease, or encumber the Property as set forth in subsection 1.3; and
- g. Other uses not prohibited by this Easement so long as the uses are consistent with the purposes of the Forest Legacy Program as of the Effective Date and the limitations set forth hereafter.

No other use is permitted.

**1.2 Forest Management.** Grantor’s reserved right to use the Property for commercial and noncommercial forestry includes timber management, silvicultural activities, timber harvesting,

removal of minor forest products for sale (including but not limited to boughs, floral greens, bark, Christmas trees, pine needles, firewood, and mushrooms), drone use, and the construction, installation, maintenance, and use of temporary buildings and structures, roads, storm water facilities, and other improvements customarily appurtenant to forestry uses.

Grantor may construct, repair, and maintain forest management access and logging roads, fences, gates, and barriers, and structures and improvements for forest management purposes, including bridges, culverts, landings, fire ponds, heliports, skid trails, and sediment control devices.

Grantor shall perform all forestry uses in accordance with federal, state, and local law and the Grantor's Multi-Resource Management Plan ("Plan"), dated \_\_\_\_\_, 20\_\_\_. The Plan has been prepared by Grantor and approved by Grantee, and is on file with the Grantee. The Plan is consistent with the provisions of the Cooperative Forestry Assistance Act of 1978, as amended, 16 U.S.C. 2103a (f), and the Washington State Forest Stewardship Plan Guidelines as of the Effective Date. The Plan shall be revised when necessary to incorporate forest management practices prescribed by federal or state law. The Plan shall be reviewed by Grantor and Grantee, and updated as necessary, at least every ten years, when there is a change in land ownership, or if the Grantor's objectives change. The Plan shall be revised, updated, or otherwise amended only with Grantee's prior written approval, which shall not be unreasonably withheld. In the event of any inconsistency between this Easement and the Plan, this Easement shall control.

**1.3 Sale, Lease, and Encumbrance.** Grantor reserves the right to:

- a. Convey Grantor's ownership interest in the Property, subject to the terms of this Easement, including but not limited to the limitations on subdivision in subsection 2.1;
- b. Lease the Property, subject to the limitations in subsection 2.9, for activities compatible with this Easement and the purposes of the Forest Legacy Program; and
- c. Encumber the Property with consensual liens by mortgage, deed of trust, or otherwise, for the purpose of indebtedness of Grantor, so long as the liens are made expressly subordinate to this Easement.

Grantee shall incorporate this Easement by reference to any conveyance, lease, or encumbrance and shall provide Grantee notice of any conveyance, lease, or encumbrance within 30 days.

## **PART II RESTRICTIONS ON THE USE OF THE PROPERTY BY GRANTOR**

**2.1 Subdivision.**

- a. Grantor shall not subdivide the Property into additional lots, tracts, or parcels than exist as of the Effective date.
- b. Grantor may convey fee ownership of portions of the Property that are 640 acres or larger. Conveyed parcels shall remain subject to this Easement. Certain limitations and

rights in this Easement shall be allocated to sold parcels as set forth in Exhibit \_\_\_\_. *[Note: certain rights such as number of borrow pits must be allocated proportionately if Property has more than one owner.]* Grantor shall notify Grantee of a conveyance and provide Grantee a copy of the recorded conveyance within 30 days.

**2.2 Structures and Improvements.** Except as provided in this Easement, Grantor shall not construct any building, structure, or other improvements of any kind, temporary or permanent, on the Property, including but not limited to houses, sheds, tanks, mobile homes, windmills, wind turbines, dams, and impoundments. *[Option-* Structures already located on the Property as of the date of this Easement may be reconstructed and maintained but not expanded.]

**2.3 Mineral Development.** No mining, drilling, excavation, or mineral development of any kind shall be permitted in, under, or upon the Property, including but not limited to the development of minerals or common varieties of mineral resources such as sand, gravel, stone, and clay, or the mining of organic materials such as peat, except as expressly permitted in this subsection 2.3. The proposed size and extent of the permitted uses under this subsection 2.3 shall be included in the Plan and shall be consistent with applicable laws, including Washington State Forest Practice Rules in WAC Title 222.

Grantor may designate within the Property not more than \_\_\_ borrow pit sites (individually, a “Borrow Pit” and collectively, the “Borrow Pits”) (with no single Borrow Pit exceeding \_\_\_ acres and all Borrow Pits collectively not to exceed a total of \_\_\_ acres of the Property at any given time) from which sand, gravel, and stone may be extracted for use as is reasonably necessary to construct and maintain trails, roads, landing areas, and parking areas located within the Property. No sand, gravel, or stone may be extracted from the Property for sale to others. In performing authorized extraction, Grantor shall:

- a. Use, disturb, or occupy the Property to the minimum extent reasonably possible;
- b. Construct structures and improvements only as necessary for the operation and remove the structures, improvements, and construction materials from the Property within one year of terminating the operation. If Grantor fails to do so, Grantee may remove, destroy, or otherwise dispose of the structures, improvements, and construction materials at Grantor’s expense;
- c. Take all reasonable precautions to dispose of dumpage or other deleterious materials or substances to prevent obstruction, pollution, or deterioration of water and other natural resources; and
- d. Revegetate and reclaim the land to its original contours, to the extent reasonably possible, within one year of completing operations.

**2.4. Ecosystem Service Markets Allowance/Prohibition. [Clause is optional but if included must use this language]** Grantor may engage in ecosystem services markets (“ESM”)

under other programs but such action must not adversely affect the interest granted under the Easement to Grantee or Grantee's right of enforcement or be inconsistent with or defeat the conservation purpose for which the Easement was acquired.

No agreements relating to ESM shall be made regarding the Property that are or are likely to become inconsistent with Forest Legacy Program purposes, terms of the Easement, or other documents incorporated by reference. If Grantor wishes to enter into such an agreement, Grantor shall notify Grantee of any proposed participation in ESM deemed compatible with the purposes and terms of the Easement and related documents and explain why Grantor believes market participation is compatible. Grantee and, if this Easement has been transferred under subsection 5.11, the State Lead Agency ("State Lead Agency," defined as the State administrator of the Forest Legacy Program) will consult to determine the compatibility of the market participation. As needed and as appropriate to make the determination, Grantee and State Lead Agency will consult with the United States Department of Agriculture ("USDA") Forest Service. If it is determined to be compatible, Grantee shall provide an approval and authorization letter to Grantor and include the letter and ESM participation documentation as an attachment to the current Plan. The Grantee may review and monitor all ESM participation for compatibility with Forest Legacy Program purposes and requirements.

**2.5. Topography Modification.** Changes in the existing general topography of the landscape or land surface of the Property, excluding change as a result of activities permitted by this Easement, are prohibited unless such changes were caused by circumstances beyond the control of the Grantor. Activities permitted by this Easement that might change topography include without limitation Borrow Pit excavation, roadway construction and maintenance (including appurtenant cuts and fills), and storm water facility construction and maintenance.

**2.6. Waste Disposal and Hazardous Materials.** Grantor shall not use any portion of the Property for dumps, landfills, or the storage or deposit of waste materials of any kind, nor transport over or keep on or around the Property for use, disposal, treatment, generation, storage, or sale, any substance designated as hazardous, dangerous, toxic, or harmful, as those terms are used in any federal, state, or local law regulating such substance, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601) and the Model Toxics Control Act (RCW 70.105D), except to the extent necessary to perform activities authorized by this Easement and by law.

**2.7. Industrial, Commercial, and Residential Activities.** Except as authorized in this Easement, Grantor shall not use the Property for industrial, commercial, or residential activities.

**2.8. Signs and Billboards.** Grantor shall not place any sign or billboard on the Property, except signs that state the name and address of the property owner or manager, interpretive signs referring to forestry and timberland management, signs related to silvicultural treatments as required by law, road numbering signs, survey monument signs, signs providing road and trail directions, real estate signs, timber sale and harvest boundary or leave-tree signs, warning signs, signs disclosing access rules and regulations, or signs to control unauthorized entry or use as may

be permitted in this Easement. Authorized signs shall be no larger than thirty-six (36) square feet in area.

**2.9. Additional Encumbrances.** Grantor shall not grant utility easements or other easements, leases, licenses, or contracts, that negatively affect the Conservation Values of this Easement or the purposes of the Forest Legacy Program, or that limit the allowed uses of the Property, without the Grantee's prior written consent. Provided, however, Grantor shall not be required to obtain Grantee's prior approval to locate new or relocate existing utility easements or rights of way in roadways that exist as of the Effective Date or roadways that are subsequently built for forest management purposes, or to locate utility facilities authorized in subsections 1.1 and 1.2.

**2.10. Limits on Compatible Non-forest Use.** At least 75 percent of the Property acreage shall remain in forest use at all times. In no case shall compatible non-forest uses authorized in this Easement total more than 25 percent of the Property acreage.

**2.11. Mitigation.** Grantor shall not include this Property in any set aside or use it as mitigation for development elsewhere.

### **PART III USE OF THE PROPERTY BY THE GRANTEE**

Grantee may use the Property as provided in this Part.

**3.1. Entry and Inspection.** Grantee may enter the Property to inspect and monitor Grantor's compliance with the terms of this Easement, and conduct other activities authorized in this Easement, upon 48 hours advance notice to Grantor. Advance notice shall not be required in the event of emergencies or suspected deliberate violations. In performing Monitoring Activities, Grantee may use motorized vehicles including but not limited to cars, trucks, snowmobiles, helicopters and drones. [*Option:* Grantee may not use motorcycles or ATVs.]

**3.2. Signs and Notices.** Grantee may, at its sole expense, post signs and notices to survey, mark, and monument the boundaries of the Property, identify and interpret natural environmental features, promote on-site activities permitted on the Property, give road or trail directions, or control unauthorized entry or use as described herein. Grantee shall not post signs or notices to or upon Grantor's trees. Grantee shall notify the Grantor orally or in writing of Grantee's intention to post signs at least 30 days in advance of doing so.

### **PART IV PUBLIC ACCESS**

**4.1. Recreation.** Subject to subsection 4.2, the public shall have the right to enter, traverse, and otherwise use the Property for recreational activities, including but not limited to camping, hunting, trapping, fishing, hiking, snowshoeing, skiing, biking, and horseback riding. [Snowmobiles and other motorized vehicles are not permitted [OR are permitted on designated roads and trails *Option:* as shown on Exhibit \_\_\_\_]. The Grantor may reasonably regulate public

use and access of the Property to avoid interference with the Grantor's reserved rights. The Grantor shall not charge the public or otherwise impose a fee for public use of the Property.

**4.2. Restrictions on Public Use.** Grantor may regulate and restrict public use of and access to the Property when reasonably necessary to:

- a. Prevent interference with use of the Property by Grantor and third parties authorized by Grantor;
- b. Promote public safety;
- c. Prevent or reduce the risk of fire, accidents, and exposure to physical hazards;
- d. Prevent unlawful conduct including but not limited to trespass, damage to or vandalism of improvements, and removal of trees, firewood, minerals, rock, stone, or other forest products; and
- e. Prevent antisocial and unsafe behavior.

## **PART V GENERAL TERMS AND CONDITIONS**

**5.1 Notices.** Unless otherwise provided in this Easement, any request for approval, approval, or written notice called for in this Easement shall be delivered in person, by certified mail, return receipt requested, postage prepaid, by electronic mail if receipt is acknowledged by the recipient by reply electronic mail, or by next-business-day delivery through a reputable overnight courier that guarantees next-business-day delivery and provides a receipt. All notices shall be deemed received on the date actually delivered. Notices shall be addressed as follows, or at such other addresses as the parties may from time to time designate in writing:

To Grantor:

To Grantee:

With Copy to:

**5.2. Successors in Interest.** The obligations of the Grantor under this Easement shall bind the Grantor's heirs, successors, agents, and assigns.

**5.3. Authorized Representatives.** As used in this Easement, the term Grantee shall include its agents, successors or assigns.

**5.4. Hold Harmless.** **[Required language, may not be edited]** Grantor shall indemnify, defend with counsel acceptable to Grantee, and hold harmless Grantee, its employees, officers, agents, and contractors ("Grantee Indemnified Parties") from and against any and all liabilities,

penalties, fines, charges, costs (including reasonable attorney fees), losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including injury to or death of any person, or physical damage to any property, arising out of or resulting from any act or omission of Grantor, its employees, agents, contractors, licensees, or guests, including the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601) and the Model Toxics Control Act (RCW 70.105D). Grantor waives its immunity under RCW Title 51 to the extent required to indemnify, defend, or hold harmless Grantee Indemnified Parties. As between Grantor and Grantee, Grantee shall be liable for all losses arising after the date hereof to the extent that the losses arise from Grantee's negligence or intentional misconduct in the performance of its monitoring activities under this Easement.

### **5.5. Enforcement and Remedies**

a. **General.** Upon any breach of a term or condition of this Easement by Grantor, Grantee shall give written notice to the Grantor to discontinue the violation and undertake corrective action sufficient to abate the violation and, if applicable, restore the Property to the condition existing immediately prior to the action or event constituting the breach, unless Grantor and Grantee agree that restoration is impossible, impractical, or otherwise not desirable under the circumstances. If within 30 days of receiving notice from Grantee, Grantor fails to discontinue or abate the violation, or undertake corrective action as requested by the Grantee and diligently pursue it to completion, the Grantor shall be entitled to institute a lawsuit or other legal action seeking an injunction to enjoin any breach of the Easement by Grantor or third parties acting on behalf of Grantor.

Grantee's remedies shall be cumulative and shall be in addition to such other remedies available to Grantee at law or equity. If Grantor is found to have breached any of Grantor's obligations under this Easement, Grantor shall reimburse Grantee for any costs or expenses incurred by Grantee in enforcing this Easement, including court costs and reasonable attorney fees.

b. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee. No failure on the part of Grantee to enforce any term of this Easement shall discharge or invalidate such term or any other term of this Easement, nor affect the right of Grantee to enforce that same term in the event of a subsequent breach.

c. **Dispute Resolution.** The parties may, by mutual agreement, institute mediation or other alternative dispute resolution procedures to resolve any disputes arising in connection with this Easement and Grantor's use of the Property.

**5.6. Waiver.** Enforcement of the terms of this Easement shall be at the discretion of Grantee. Any forbearance by Grantee to exercise its rights under this Easement in the event of breach of any term by Grantor shall not be deemed 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 the rights of Grantee under this Easement. No delay or omission by Grantee in exercising its rights shall impair such right or remedy or be construed as a waiver.

**5.7. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond the control of Grantor, including but not limited to vandalism, fire, flood, storm, and earth movement.

**5.8. Unpaid Obligations.** Grantor shall pay before delinquency all obligations secured by the Property and shall also pay before delinquency or file timely appeal of all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent governmental authority (collectively "Taxes"). If Grantor fails to pay any taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of taxes upon three 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 shall bear interest until paid by Grantor at the annual rate of 12 percent.

**5.9. Amendment.** **[Required language, may not be edited]** This Easement may be amended only with the written approval of Grantor, Grantee, the State Lead Agency if the Easement has been transferred under subsection 5.11, and the USDA Forest Service Region 6 Forest Legacy program manager (the "USDA Program Manager") (collectively, the "Approving Parties"), and they are under no obligation to agree to any amendment or consult or negotiate regarding any amendment. An amendment may be approved by the Approving Parties only if it will

- a. Serve the public interest and not diminish the benefits provided to the public;
- b. Have a beneficial or neutral effect on the Conservation Values protected by this Easement;
- c. Be consistent with the purposes of the Forest Legacy Program and the purposes of this Easement;
- d. Not confer an economic benefit on private persons (private inurement or private benefit in the case of a charitable organization);
- e. Be consistent with the intent of the original Grantor of this Easement and any funding entities;
- f. Not diminish the perpetual duration of this Easement or negatively affect the status or rights of the Grantee or the United States with regard to this Easement; and
- g. Otherwise comply with all applicable Federal, State, and local laws and regulations.

Amendments to make boundary line adjustments are permitted only in the case of technical errors made in the survey or legal description.

If the Easement has been transferred under subsection 5.11, the Grantee must provide written notice to the State Lead Agency of any proposed amendment, along with the information needed to evaluate the proposed amendment under the criteria set forth above. Any approved amendment must be recorded in the appropriate local land use records and a copy of the recorded amendment must be provided to the Approving Parties within 30 days of recordation. Any purported amendment that is recorded without the prior written approval of the Approving Parties will be null and void.

Any approved amendment must be recorded in the appropriate county auditor's office, and a copy of the recorded amendment must be provided to the Approving Parties within 30 days after recordation. Any purported amendment that is recorded without the prior written approval of the Approving Parties will be void.

**5.11 Transfer of Easement Rights by Grantee. [Required language, may not be edited]**  
This Easement may be transferred or assigned by Grantee only to a government entity ("Easement Holder") that is eligible to hold this Easement under the Forest Legacy Program, is willing and able to hold this Easement for the purpose for which it was created, and expressly agrees to assume the responsibility imposed on the original Grantee by the terms of this Easement. Transfer or assignment of this Easement by Grantee requires the consent of the State Lead Agency, if different from Grantee, and written notice of the assignment or transfer delivered to Grantor within 30 days after the effective date of the assignment or transfer. If the Easement Holder ever ceases to exist, or is no longer willing and able to hold this Easement for the purpose for which it was created or carry out the responsibility imposed on the Easement Holder by the terms of this Easement, the State Lead Agency must identify and select an appropriate entity to which this Easement must be transferred.

**5.12 Extinguishment. [Required language, may not be edited]** Grantor and Grantee acknowledge that USDA Forest Service Forest Legacy Program funding for the acquisition of this Easement is authorized by the Cooperative Forestry Assistance Act of 1978, P.L. 95-313 as amended (codified at 16 U.S.C. § 2101 et seq), and pursuant to the grant agreement [number and name] awarded by the USDA Forest Service on [date], to the Washington State Department of Natural Resources. The grant agreement is housed in the USDA Forest Service Regional Office at 1220 SW Third Avenue, Portland, OR, 97204-2825, or in an archival facility per Agency policy.

Grantor and Grantee acknowledge and agree that this Easement cannot be extinguished, in whole or in part (whether through release, termination, exchange, or otherwise) and the USDA Secretary of Agriculture or his or her designee ("Secretary"), in the Secretary's sole and absolute discretion, consents in writing to the extinguishment and the United States is reimbursed its proportionate share of the value of this Easement or the portion thereof that is extinguished at the time of extinguishment. The form of the United States' reimbursement under this subsection 5.12, whether it is received in cash or in kind, shall be in the sole and absolute discretion of the Secretary but shall in all events be used for Forest Legacy or similar conservation purposes. This

Easement shall not be deemed extinguished in whole or in part until the United States receives reimbursement as provided in this subsection 5.12.

The United States' "proportionate share" is [\_\_\_\_\_%], which was determined by dividing the Forest Legacy Program's contribution to the acquisition of this Easement by the value of this Easement at the time of its acquisition, and expressing the result as a percentage. The United States' proportionate share shall remain constant over time.

The "value of this Easement or the portion thereof that is extinguished" shall be the value of such interest immediately before the extinguishment as determined using the before and after or similar appraisal method in an appraisal that meets the Uniform Acquisition Standards of Federal Land Acquisition (UASFLA) and is completed by a certified general appraiser approved by the Grantee and the USDA Forest Service Regional Office.

No inaction or silence by the Secretary shall be construed as approval of an extinguishment or as an abandonment of this Easement in whole or in part. Any purported extinguishment executed without the prior written consent of the Secretary will be void. The provisions of this subsection 5.12 shall survive any partial extinguishment.

If Grantor or Easement Holder is notified of a proposal to condemn all or any portion of the property subject to this Easement, the Grantee, or State Lead Agency if the easement has been transferred under subsection 5.11, and USDA Forest Service must immediately be notified.

**5.13. Rule of Construction.** This Easement shall be liberally construed to carry out the purposes of the Forest Legacy Program and the Guidelines in effect on the effective date of this Easement, to protect forest lands that are threatened by conversion to non-forest uses and other conservation purposes for which this easement was acquired. The parties acknowledge that each has had an opportunity to have this Easement reviewed by an attorney and agree that the terms shall not be presumed construed against the drafter.

**5.14. Easement Management.** The Grantee shall have the right to delegate management and enforcement authority under this Easement to any duly appointed easement manager, which may include a federal, state, or local government agency or non-profit agency. This appointment may be changed from time to time.

**5.15. Invalidity.** Invalidity of any of the covenants and restrictions or anything else contained in this Easement, or any part thereof, by judgments or court orders shall in no way affect the validity of any of the other provisions which shall remain in full force and effect.

**5.16. Compliance with Laws.** Grantor and Grantee shall comply with all applicable federal, state, and local laws while performing any of the activities on the Property authorized herein.

**5.17 Subordination. [Required if Property is mortgaged]** Pursuant to that certain Subordination Agreement of approximately even date herewith (the "Subordination Agreement") among Grantor, [lender name(s)] ("Grantor's Lender"), which is being recorded in the records of the county auditor ("Records") by the parties simultaneously with this Easement, Grantor's

Lender has agreed to subordinate to Grantee's interests under this Easement all of its liens, encumbrances and security interests created by that certain Mortgage, Financing Statement and Fixture Filing (Open End) recorded in the Records on [date], under Auditor's File No. \_\_\_\_\_, [as modified by Instrument recorded on [date], under Auditor's File No. \_\_\_\_\_;] and Mortgage recorded in the Records on [date], under Auditor's File No. \_\_\_\_\_.

**5.18 Recordation.** Grantor and Grantee shall cause this Easement and all accompanying exhibits to be recorded in the Records on the closing date and may re-record it at any time as may be required to preserve their rights set forth herein.

**5.19 Counterparts.** This Easement may be signed in counterparts, any one of which shall be deemed an original.

**5.20 Control by Grantee.** Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of any environmental laws.

**5.21 Authority.** The individuals signing below, if signing on behalf of any entity, represent and warrant that they have the requisite authority to bind the entity on whose behalf they are signing.

**5.22 No Merger.** In the event that Grantee acquires all or a portion of the fee title to the Property, it is the intent of the parties that no merger of title shall take place that would merge the restrictions of the Easement with fee title to the Property and thereby eliminate them, and that the restrictions on the use of the Property, as embodied in the Easement, shall, in the event that all or a portion of title become vested in Grantee, become and remain permanent and perpetual restrictions on the use of the Property.

**5.23. Entire Agreement.** This document sets forth the entire agreement of the parties. Any prior or contemporaneous discussions, negotiations, or agreements are of no effect.

**5.24. Exhibits.** All exhibits referenced in this Easement are incorporated herein by reference and are to be considered terms of this Easement.

EXHIBITS:  
*(list)*

[signatures on following page]

GRANTOR:

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

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

STATE:

STATE OF WASHINGTON (GRANTEE)  
DEPARTMENT OF NATURAL RESOURCES

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

Hilary S. Franz  
Commissioner of Public Lands

Approved as to Form this \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Assistant Attorney General  
State of Washington

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me \_\_\_\_\_ to me known to be the \_\_\_\_\_ of the **corporation** that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that **he/she/was they were** authorized to execute said instrument for said corporation and that the seal affixed is the corporate seal of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of  
Washington residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ personally appeared before me \_\_\_\_\_, to me known to be the **(individual)** \_\_\_\_\_ described in and who executed the within and foregoing instrument and acknowledged that **he/she/they** signed the same as **his/her/their** free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Washington, residing at \_\_\_\_\_.

My appointment expires \_\_\_\_\_.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF )

STATE OF WASHINGTON )  
 ) ss  
County of )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, personally appeared before me **Hilary S. Franz**, to me known to be the **Commissioner of Public Lands**, State of Washington, who executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_.

My appointment expires \_\_\_\_\_.

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**EXHIBIT A**

Legal Description of Conservation Easement Property

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

**EXHIBIT B**

Map of Conservation Easement Property