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**DEED OF CONSERVATION EASEMENT IN GROSS**

**THIS DEED OF CONSERVATION EASEMENT IN GROSS** is entered into by and between J. Gale Moody and Valerie A. Moody, hereinafter referred to as the "Grantor", and the County of Boulder, a body corporate and politic, hereinafter referred to as the "Grantee".  
**WITNESSETH:**

**RECITALS**

**WHEREAS**, Grantor is the sole owner of certain real property within the County of Boulder, State of Colorado, and more particularly described in Exhibit 1 attached hereto and incorporated herein by this reference and hereinafter referred to as the "Property"; and

**WHEREAS**, the current use of the Property is for agricultural and residential purposes; and

**WHEREAS**, Grantor and Grantee intend to preserve the Property in its present form and prevent further development on the Property; and

**WHEREAS**, the Grantor desires to continue responsible farming and ranching practices and the use of the Property in such a manner that protects the Property's open space values; and

**WHEREAS**, the Grantor desires to sell an interest in the Property to the Grantee in order to assure its preservation in perpetuity; and

**WHEREAS**, the Grantee desires to purchase an interest in the Property from the Grantor in order to assure its preservation in perpetuity for agricultural uses and for the open space functions which it serves.

**NOW, THEREFORE**, in consideration of the sum of THREE HUNDRED SIXTY-SIX THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$366,925.00) and of the mutual covenants contained herein, and further pursuant to Section 38-30.5-101, et seq., Colorado Revised Statutes 1973 (1982 Repl. Vol.), Grantor does hereby convey to Grantee a Conservation Easement in Gross (hereinafter, the "Easement") consisting of the rights hereinafter enumerated, over and across the real property described in Exhibit 1.

1. **Purpose.** It is the purpose of this Easement to preserve in perpetuity the Property in its present condition and to prevent additional development on the site.

2. **Affirmative Rights Conveyed.** The affirmative rights conveyed to Grantee by this Easement are the following:

(a) To preserve and protect in perpetuity the open space values and the agricultural resources of the Property.



(b) To require that the Property be managed consistent with a Soil and Water Conservation Plan and/or a Grazing Management Plan as prepared and approved by the Longmont Soil Conservation District or its successor. It is agreed that Seller shall cause a new plan to be developed within ninety (90) days of the execution of this Deed. Such plan shall recognize both crop production and grazing as potential uses of the Property and shall include customary rotation of crops, grazing rotation and protection of wetlands from grazing or cultivation. The plan shall be updated at least every ten (10) years.

(c) To enter upon the Property, with reasonable notice, to inspect for violations of the terms and covenants of this Easement and to remove or eliminate and conditions or operations which violate the same.

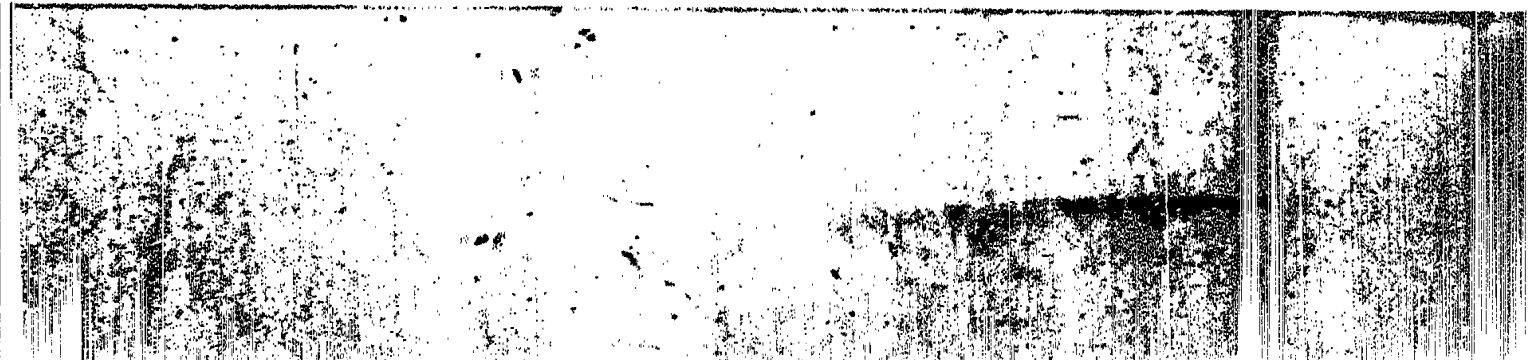
(d) To review and approve or deny applications from the Grantor for uses neither expressly granted nor specifically prohibited by the Easement described herein but which may be conducted in a manner consistent with agriculture as the primary use of the Property and which do not compromise the open space values of the land. Approval, if granted, shall be by resolution of the Board of County Commissioners of Boulder County and recorded in the office of the County Clerk and Recorder.

Except as expressly provided herein Grantor retains exclusive access to and use of the Property.

3. Permitted Uses and Practices. Grantor intends that this Easement shall confine the future use of the Property to agricultural uses and related structures and the other related or compatible uses. The following uses and practices are permitted under this Easement, and these practices are not to be precluded, prevented, or limited by this Easement, provided such uses and practices are consistent with the laws and regulations of the United States and the State of Colorado and with the zoning and other regulations of Boulder County and will not interfere with or be detrimental to the agricultural resources and uses of the Property or to its open space values:

(a) Continuation of agricultural uses and the pasturing of livestock at a level consistent with the Boulder County Land Use Regulations and with the Soil and Water Conservation Plan and/or a Grazing Management Plan for the Property as prepared and approved by the Longmont Soil Conservation District or its successor.

(b) Maintenance, repair, paving, replacement and use of all roads, fences and corrals, legally existing on the property as of the date of the Easement, substantially in their present condition or as reasonably necessary for the uses permitted on



the property. Installation of such additional fences and corrals as are necessary for grazing management.

(c) Maintenance, repair, remodel and replacement of the two existing residences and the accessory outbuildings. However, Grantor shall not erect, construct or expand any structure on the Property such that the total coverage of structure on the Property exceeds the area now encumbered by the current improvements, without the prior, written consent of the Grantee. Remodel of the existing improvements or construction of replacement structures may be permitted only if such construction is in accordance with Boulder County Land Use Regulations in effect at the time the proposed remodel, razing and/or construction take place, and if all required permits and approvals are obtained. Grantee acknowledges that Grantor or Grantor's successor may desire to replace and relocate the existing house at 15312 N. 107th Street. Such relocation shall be subject to Boulder County's building permit and site plan review process.

(d) Installation, maintenance, repair, removal and relocation, and replacement of utility mains, lines and underground facilities for the purpose of providing utility services to the Property.

(e) Development and maintenance of such water resources on the Property as are necessary or convenient for irrigation and the agricultural uses conducted thereon pursuant to the terms hereof; provided, however, that the development and use of such water resources shall be compatible with the purposes of this Easement to protect and preserve the agricultural and open space values of the Property. Permitted activities shall include repairs to the existing pond; installation, maintenance, repair, removal and relocation, and replacement of other agricultural irrigation facilities, including ditches, pipes and water diversion structures.

(f) Use of agrichemicals, including but not limited to, fertilizers and biocides.

(g) Control of predatory and problem animals by the use of selected control techniques whose effect will be upon only specific animals or species which have caused or are likely to cause damage to crops, livestock or other property. Such control techniques shall not have detrimental impacts upon water quality and the continued agricultural use of the property and shall exclude the use of leghold traps.

(h) Use of the Property for recreational, scientific and/or educational activities which are occasional in nature, are limited to Grantor and Grantor's invited guests and in no way interfere with or are detrimental to the agricultural

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resources and uses of the Property or to its open space values.

(i) Except as such interest is otherwise conveyed to Grantee by deed or certificates of ownership, Grantor specifically retains (1) all right, title, and interest in and to all tributary and non-tributary water, water rights, and related interests in, on, under, or appurtenant to the land; and (2) all right, title, and interest to subsurface oil, gas, and other minerals; provided, however, that exploration for, and extraction of any minerals shall be limited to that permitted by any oil or gas lease in effect as of January 1, 1995. If exploration is permitted under such a lease, it shall be undertaken in a manner consistent with the Boulder County Land Use Regulations and other applicable regulations and designed to ensure protection of the agricultural resources and open space values of the Property. Surface and open mining are expressly prohibited by this Easement.

(j) Grantor retains the right to apply to the Grantee for permission to conduct other uses and activities on the Property which are neither expressly granted nor specifically prohibited by the Easement but which may be conducted in a manner consistent with agriculture as the primary use of the Property and with other provisions contained herein.

4. Prohibited Uses and Practices. The following uses and practices are inconsistent with the purposes of this Easement and shall be prohibited upon or within the Property:

(a) The change, disturbance, alteration, or impairment of the open space values or the agricultural resources of the Property except as otherwise provided herein

(b) The construction or placement of any structure of a permanent or temporary nature, except as provided in Paragraphs 3 (b) and 3 (c)

(c) The construction, placing or erection of any sign or billboard without consent of the Grantee, except signs of less than twenty (20) square feet advertising the property for sale or advertising agricultural products produced on site and then only if such signs are consistent with the Boulder County Land Use Regulations

(d) The establishment of any residential use other than two single-family dwellings as provided in Paragraph 3 (c), or any industrial or commercial use, provided, however, that neither the agricultural, recreational nor educational uses described in Paragraph 3 above shall be considered industrial or commercial use

(e) Public or quasi-public uses and facilities, except rights-of-way which may be required for construction of public

streets and roads and then only when such public streets and roads are consistent with the Boulder County Comprehensive Plan

(f) Any public or private utility installation or facility, except as such are necessary to serve the Property, as provided in Paragraphs 3 (d) and (e) above

(g) The use of the Property as a take-off or landing site for any motorized or non-motorized aircraft, including passenger balloons

(h) Open or subsurface mining

(i) The dumping or accumulation of trash, ashes, garbage, waste or other unsightly or offensive material on the Property. Manure shall not be considered an offensive material provided that the storage and use of any manure is consistent with local, state and federal guidelines and regulations, including Boulder County Health Department Regulations, the Boulder County Zoning Resolution and Boulder County Land Use Regulations.

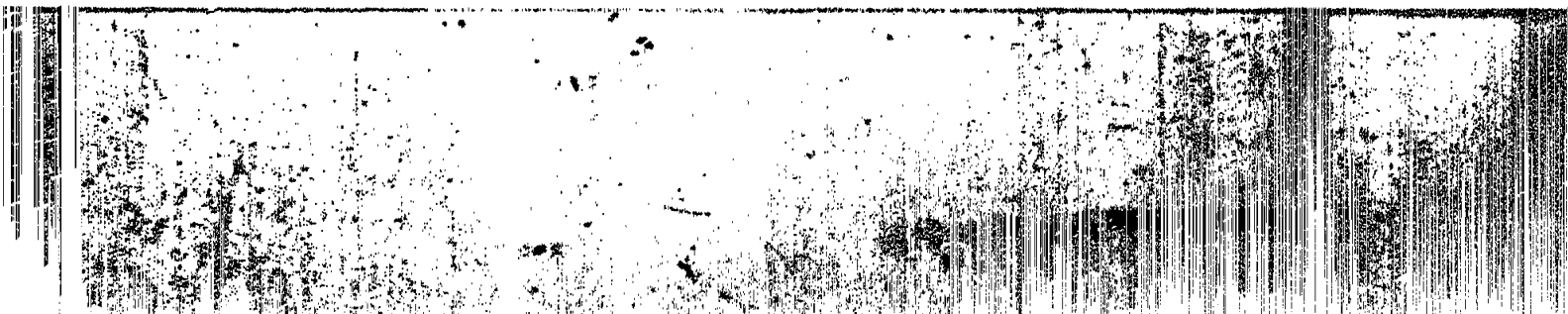
(j) Any use not expressly permitted by the Boulder County Land Use Regulations for agriculturally zoned property.

(k) The division, subdivision, or de facto subdivision of the Property without the express consent of the Grantee, except that the Property may be sold in two parcels of greater than 35 acres with each home, with existing or approved structures. The conditions of this Easement shall attach to the land and shall survive any division of the Property. If the Seller divides the property into two parcels, Seller shall, at Sellers sole expense, provide County with a boundary survey of the divided parcels before the closing of either parcel.

(l) The sale or conveyance of the Water Rights described in Exhibit 1 or their conversion to non-agricultural uses. Water Rights may be conveyed in accordance with paragraph 4(k) above, provided that the Water Rights shall run with the land and shall not be severed from the Property or the two parcels of the Property.

5. Wetlands. If necessary for protection of wetlands identified on Boulder County's Wetlands Map and addressed in the Soil and Water Conservation Plan and/or Grazing Management Plan, Grantor shall be responsible for fencing the wetland areas. In the event restoration or enhancement of the identified wetlands is desirable, Grantee may carry out such projects at its own expense, after consultation with the Grantor, and in such manner as not to interfere with Grantor's use of the Property outside the wetland area.

6. Baseline Data. It is acknowledged by the Grantee and the



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Grantor that the Property possesses significant open space and agricultural values and that the Property will be managed consistent with the Soil and Water Conservation Plan and/or Grazing Management Plan as stated in Paragraph 2(b) herein. In order to establish a complete inventory of the present conditions of the Property and its agricultural resources and open space values so as to be able to properly monitor future uses of the Property and assure compliance with the terms hereof, Grantee shall prepare or cause to be prepared an inventory of the Property's relevant features and conditions (the "Baseline Data"). Grantor shall allow Grantee, or Grantee's designated agent, access to Property, with reasonable notice, to conduct necessary studies in developing the Baseline Data, provided, however, that such access does not unreasonably restrict or interfere with normal agricultural operations as permitted under this Easement. The Baseline Data may include, but need not be limited to, aerial photographs, topographical maps, maps indicating the extent of agricultural uses, and botanical and wildlife photographs and reports. The parties acknowledge and agree that in the event a controversy arises with respect to the nature and extent of Grantor's use or the physical condition of the property subject to this Easement as of the date hereof, the parties shall not be foreclosed from utilizing all other relevant or material documents, surveys, reports, and other evidence to assist in the resolution of the controversy.

7. Enforcement Rights of Grantee. In the event of a violation of any term, condition, covenant, or restriction contained in this Easement, after fifteen (15) days' notice of violation to the Grantor, the Grantee may institute a suit to enjoin by temporary and/or permanent injunction such violation, or for damages for breach of covenant, or may take such other action as it deems necessary to insure compliance with the terms, conditions, covenants and purposes of this Easement; provided, however, that any failure to so act by the Grantee shall not be deemed to be a waiver or a forfeiture of the right to enforce any term, condition, covenant, or purpose of this Easement in the future. By mutual agreement, Grantor and Grantee may also submit any violation of this Easement or any related matter in dispute to binding arbitration.

8. Restoration. Grantor further intends that should any prohibited activity be undertaken on the Property, the Grantee shall have the right to cause the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity. In such case, the cost of such restoration shall be borne by Grantor, its successors, or assigns, against whom a judgment is entered. Nothing contained herein shall be construed to preclude Grantor from exhausting all legal remedies that may be available in determining whether the proposed activity to which the Grantee has objected is consistent with this Easement.

9. Costs and Taxes. Grantor agrees to bear all costs of operation, upkeep, and maintenance of the Property and does hereby indemnify the Grantee therefrom. In addition, Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property. The Grantor shall be responsible for the operation, upkeep and maintenance of the property to the extent reasonable, subject to the soil conservation plan set forth in Paragraph 2(b) above and the other terms of this Conservation Easement.

10. Access. Nothing contained herein shall be construed as affording the public access to any portion of the land subject to this Easement. Nothing in this Easement shall be construed to preclude Grantor's right to grant limited public access to third parties across its land. All access, whether by third parties or the Grantor, shall be performed in a reasonable manner that does not result in degradation of the open space values or agricultural attributes of the Property.

11. Grant in Perpetuity. The Easement herein granted shall be a burden upon and shall run with the Property in perpetuity and shall bind the Grantor, Grantor's successors and assigns forever.

12. Miscellaneous.

(a) The terms "Grantor" and "Grantee", whenever used herein, and any pronouns used in place thereof, shall mean and include the above-named Grantor and Grantor's heirs, personal representatives, executors, successors and assigns and the above named-Grantee and its successors and assigns, respectively.

(b) If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Deed of Conservation Easement in Gross and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

(c) The Grantor agrees that reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which Grantor conveys any interest in the Property (including a leasehold interest), and that Grantor will provide a copy of this Deed of Conservation Easement in Gross to any subsequent purchaser.

IN WITNESS, WHEREOF, Grantor has executed this Deed of Conservation Easement this 14 day of March, 1995.

GRANTOR:  
J. Gale Moody by Timothy W. Hasler,  
his Attorney in Fact  
J. Gale Moody by Timothy W. Hasler,  
his attorney in fact  
Valerie A. Moody by Timothy W. Hasler,  
her Attorney in Fact  
Valerie A. Moody by Timothy W. Hasler,  
her attorney in fact.

STATE OF COLORADO )  
County of Boulder ) ss.

The foregoing Deed of Conservation Easement in Gross was acknowledged before me this 14 day of March, 1995 by Timothy W. Hasler as attorney in fact for both J. Gale Moody and Valerie A. Moody.

Witness my hand and official seal.

My commission expires: July 18, 1996.

[Signature]  
Notary Public

IN WITNESS AND ACCEPTANCE WHEREOF, Grantee has caused its name to be hereunto subscribed this 14<sup>th</sup> day of March, 1995.

ATTEST: (County Seal)  
[Signature]  
Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY, COLORADO  
[Signature]  
Homer Page, Chair

(EXCUSED)  
[Signature]  
Ronald K. Stewart, Vice-Chair  
[Signature]  
Jana Mendez, Commissioner

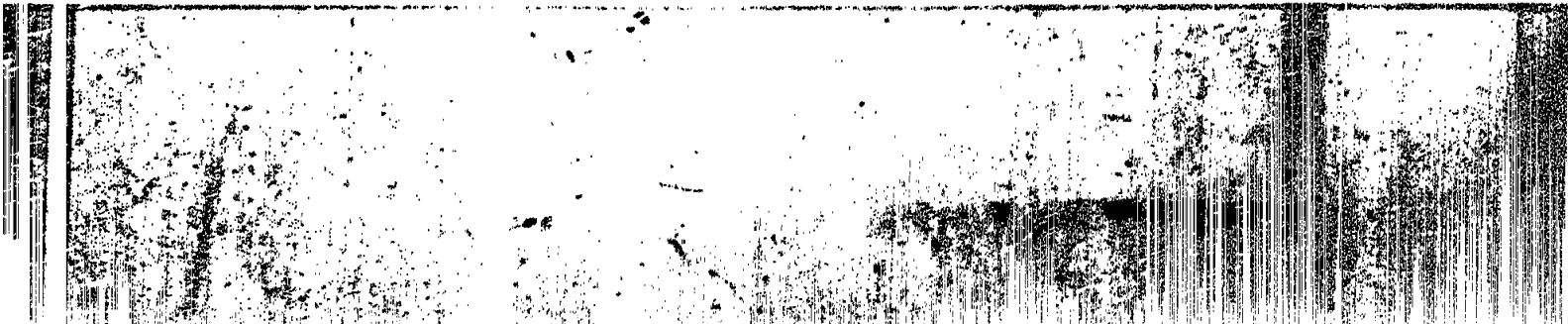




EXHIBIT 1

A CONSERVATION EASEMENT IN GROSS AS DEFINED BY SEC. 38-30.5-101 ET SEQ., C.R.S. (1982 REP. VOL. & 1994 SUPP.) IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 69 WEST OF THE 6TH P.M., BOULDER COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 AS BEARING NORTH 00°24'00" EAST, AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO: BEGINNING AT THE CENTER OF SAID SECTION 3; THENCE ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, NORTH 89°55'44" EAST, 1013.29 FEET; THENCE 2' WESTERLY AND SOUTHERLY OF THE LINES OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE ISE RESERVOIR CO. BY DEED RECORDED IN BOOK 305 AT PAGE 212, RECORDS OF SAID BOULDER COUNTY, THE FOLLOWING FIVE (5) COURSES AND DISTANCES: (1) SOUTH 63°00' EAST, 809.77 FEET; (2) SOUTH 0°48' WEST, 198.60 FEET; (3) SOUTH S2°44' WEST, 376.76 FEET; (4) NORTH 79°04' EAST, 354.72 FEET; (5) NORTH 69°32' EAST, 961.90 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF SECTION 3; THENCE ALONG SAID EAST LINE, SOUTH 00°24'00" WEST, 2260.09 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 3; THENCE ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 3, SOUTH 89°56'31" WEST, 2663.48 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 3; THENCE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 3, NORTH 00°03'06" WEST, 2652.19 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT CERTAIN TRACT OF LAND CONVEYED TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO BY DEED RECORDED IN BOOK 1023 AT PAGE 491, RECORDS OF SAID BOULDER COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH COUNTY ROAD RIGHT-OF-WAY, FROM WHICH THE SOUTH QUARTER CORNER (SOUTHWEST CORNER OF THE SOUTHEAST QUARTER) OF SAID SECTION 3 BEARS SOUTH 69°23'12" WEST, 85.64 FEET (RECORD SOUTH 69°08'30" WEST, 85.4 FEET); THENCE NORTH 45°03'18" WEST, 70.71 FEET (RECORD NORTH 45°18' WEST 70.7 FEET); THENCE ALONG THE EXISTING EAST RIGHT-OF-WAY OF U.S. ROUTE NO. 287 (STATE HIGHWAY NO. 1), SOUTH 00°03'06" EAST, 50.00 FEET (RECORD SOUTH 0°18' EAST, 50.0 FEET); THENCE ALONG THE EXISTING NORTH COUNTY ROAD RIGHT-OF-WAY, NORTH 89°56'31" EAST, 50.00 FEET (RECORD NORTH 89°42' EAST, 50.0 FEET, MORE OR LESS) TO THE POINT OF BEGINNING OF SAID EXCEPTION, COUNTY OF BOULDER, STATE OF COLORADO