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 CABARRUS COUNTY NC
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STATE OF NORTH CAROLINA

**DEED OF CONSERVATION EASEMENT;
 OPTION TO PURCHASE REAL ESTATE
 AND RIGHT OF FIRST REFUSAL**

COUNTY OF CABARRUS

THIS DEED OF CONSERVATION EASEMENT (the “**Agreement**”) is made this 21st day of February, 2023, by **FRANK A. CHESTER, JR.**, resident of Cabarrus County, North Carolina, (hereinafter referred to as the “**Grantor**”), in favor of **DAVIDSON LANDS CONSERVANCY**, a North Carolina nonprofit corporation (hereinafter referred to as “**Grantee**”). Except as otherwise expressly set forth herein, the designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and permitted assigns.

BACKGROUND STATEMENT

A. Grantor is the sole owner in fee simple of those certain parcels of land containing approximately 92.45 acres in total and located on the west and east sides of Davidson Road in Cabarrus County, North Carolina, more particularly described in **Exhibit A** attached hereto and by reference incorporated herein (the “**Property**”).

B. The Property possesses agricultural, natural, scenic, open space, educational, and water quality and watershed protection values (hereinafter referred to collectively as “**Conservation Values**”) of great importance to Grantee, the people of Cabarrus and Mecklenburg Counties, North Carolina, and the people of the State of North Carolina.

C. The Property is a significant natural area that qualifies in its present condition as a “...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,” as that phrase is used in 26 U.S.C. § 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder.

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D. The Property, if preserved in accordance with this Agreement, will provide an important habitat for a diversity of plant communities, wildlife species, and geological features in the western reaches of Cabarrus County, North Carolina, including white-tailed deer, migratory songbirds, wildflowers, ferns, mature hardwood trees, planted pine stands, a variety of herbs and other plant species not common in the region.

E. The Property provides varying topography and has a range of soil types as well as open space and scenic vistas for the public benefit and enjoyment.

F. Because of its location in the Rocky River watershed, the Property, if preserved in accordance with this Agreement, will contribute to the maintenance of surface water and ground water quality of the Rocky River watershed.

G. The Property also includes agricultural land, and the Grantor and Grantee acknowledge that protection of the agricultural soils, agricultural viability and productivity of the Property is among the purposes of this Easement.

H. The Property, if preserved in accordance with this Agreement, will provide for the public's scenic enjoyment from Davidson Road of the property's forests land, open space, agricultural uses, and overall natural beauty.

I. The Property includes productive agricultural land. Some of the soils on the Property are classified as prime by the Natural Resources Conservation Service, U.S. Department of Agriculture. It is a purpose of this Agreement to protect the agricultural soils and agricultural viability and productivity of the Property.

J. The Property is proximate to 160 acres of forest and agricultural land which is already protected by a conservation easement in favor of Grantee, which protected property is commonly known as Runnymede Homeowners Association Conservation Land and the Chester Farm.

K. Because of its proximity to other permanently protected lands, the Property is an important part of the Rocky River Conservation Area.

L. The Property can provide a significant and substantial public benefit in the form of relief from urban closeness as the Charlotte metropolitan area continues to expand, urbanize and increase in population.

M. Preservation of the Property pursuant to federal, state, and local governmental conservation policy will yield a significant public benefit. The conservation purposes of this Agreement are recognized by the following governmental conservation policies:

I. N.C. GEN. STAT. §106-583. The declaration of policy for agricultural development states a "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."

II. N.C. GEN. STAT. §143B-135.230 et seq. The Clean Water Management Trust Fund recognizes the importance of protecting riparian buffers in protecting and conserving clean surface water.

III. N.C. GEN. STAT. §139-2 et seq. The declaration of policy for soil and water conservation districts states that “the 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 ... [I]t is hereby declared to be the policy of the legislature to provide for the conservation of the soil and resources of this State.”

IV. Article XIV, Section 5 of the Constitution of the State of North Carolina. “It shall be the policy of the 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 subdivision 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.”

N. Grantor and Grantee have the common purpose of conserving the 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 Historic Preservation and Conservation Agreements Act, N.C. GEN. STAT. §121-34 et seq. (the “**Act**”), and N.C. GEN. STAT. §§160A-266 through 279 and §105-317, which provide 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 provide 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 provision of that law.

O. The Board of Directors of Grantee, at its meeting on November 21, 2022 and January 16, 2023, approved acceptance of the conservation easement contained in this Agreement, which shall be known as the “Chester II Conservation Easement,” because it fulfills the requirements of the Conservancy’s adopted project selection criteria.

P. The specific Conservation Values of the Property are documented in a Baseline Documentation Report outlining relevant features of the Property, dated February 10, 2023, on file at the offices of Grantee, said Baseline Documentation Report consisting of reports, maps, photographs, and other documentation (collectively, the “**Baseline Report**”), which the parties agree provides an accurate representation of the Property at the time of this conveyance and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Agreement.

Q. Grantor intends that the Conservation Values of the Property be preserved and maintained by and through this Agreement and by the continuation of certain land use patterns of the Property, including, without limitation, those relating to its agricultural, natural vegetation and

limited uses existing at the time of this grant that do not significantly impair or interfere with those values.

R. Grantor further intends, as owner of the property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity.

S. Grantee is (i) a publicly supported, tax-exempt non-profit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986 (as amended, the "**Code**"), whose primary purpose is the preservation, protection and enhancement of land in its natural, scenic or open space condition, and is authorized by the laws of the State of North Carolina to accept, hold and administer interests in land including conservation easements, (ii) a "qualified organization" and an "eligible donee" within the meaning of Section 170(h)(3) of the Code and the Treasury Regulations thereunder, and (iii) willing to accept this Agreement under the terms and conditions hereinafter described.

T. Grantee agrees by accepting this conveyance to honor the intentions of Grantor stated herein and to use its best reasonable efforts to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and generations to come.

STATEMENT OF AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of North Carolina and in particular the Act, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.

1. Purpose. As set forth in the recitals above, which recitals are incorporated herein by reference, it is the purpose of this Agreement to assure that the Property will be retained forever in its natural, undeveloped, scenic and open space condition and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that this Agreement will confine the use of the Property to such activities as are consistent with the purpose of this Agreement, including without limitation farming, managed timber production, and education.

2. Rights of Grantee. To accomplish the purposes of this Agreement the following rights are conveyed to Grantee:

(a) All present and future development rights for the Property, except as otherwise reserved and provided in Paragraphs 3 and 4 below. The parties agree that such rights are terminated and extinguished and may not be used on or transmitted to any portion of the Property or to any other property.

(b) To preserve and protect the Conservation Values of the Property; provided, however, that Grantor shall have reasonable discretion with respect to its use of the Property and management practices so long as those uses and practices are consistent with the terms and conditions of this Agreement.

(c) To enter upon and access the Property in accordance with the provisions of Paragraphs 6 and 11 of this Agreement.

(d) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Agreement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Agreement is prohibited by Grantor and Grantee. Without limiting the generality of the foregoing, the following activities on and uses of the Property are expressly prohibited:

(a) *Subdivision.* The legal or de facto subdivision of the Property.

(b) *Commercial Use.* Any commercial or industrial use of or activity on the Property. Home occupation uses are allowed in the permitted structures.

(c) *Structures.* The placement or construction of any buildings, structures, or other improvements of any kind other than those permitted in Paragraph 4 below.

(d) *Surface Alteration.* Any alteration of the surface of the land, including without limitation the excavation or removal of soil, sand, gravel, rock or sod except (i) as permitted in Paragraph 4 below, (ii) for the purposes of combating erosion, or (iii) incidental to conservation management activities otherwise permitted in this Agreement.

(e) *Erosion; Pollution.* Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or sub-surface waters.

(f) *Alteration of Water Courses.* Natural water courses, wetlands, or other bodies of water may not be further diverted or altered, except to restore or enhance the hydrology of the Property, or for the protection of native plant species on the Property. Any such restoration, enhancement or habitat protection activity shall be conducted in accordance with a plan prepared by a conservation professional, and designed to protect the Conservation Values of the Property including, without limitation, scenic and wildlife habitat values, and shall be approved in writing by Grantee.

Notwithstanding the foregoing, damming, diking, draining, filling or alteration of springs, streams, or ponds shall be permitted only as necessary for the following limited purposes:

(i) only with the prior written consent of Grantee, for restoration or improvement purposes; and

(iii) only with the prior written consent of Grantee, for storm water management and agricultural activities.

(g) *Utilities.* The installation of new utility systems or extensions of existing systems, including without limitation, water, sewer, power, fuel and communication lines

and related facilities (such as cell towers, telephone relay towers, and other stand-alone tower structures), except as permitted in Paragraph 4.

(h) *Signage.* Placement of any signs, billboards, or outdoor advertising of any kind on the Property. Notwithstanding the above, (i) Grantor or grantee, subject to the Grantor's approval, may erect and maintain, informational signage, including without limitation signs indicating the name of the Property and its ownership by Grantor, boundary markers, directional signs, memorial plaques, informational and interpretive signs, and signs limiting access or use, and (ii) Grantee may erect and maintain signs designating the Property as land under the protection of Grantee; provided in each case that the placement, number, and design of such signs are approved by the Grantor and do not significantly diminish the scenic character of the Property.

(i) *Mining.* The exploration for, or development and extraction of, minerals and hydrocarbons by any surface mining method or any other method that would impair or interfere with the Conservation Values of the Property

(j) *Motorized Vehicles.* Motorized vehicles, including without limitation recreational off-road vehicles, are prohibited on the Property, except as they are used for (i) management, maintenance, agricultural, or stewardship purposes, or (ii) on permitted roads and driveways providing access to structures, or (iii) for the personal mobility of an individual unable to traverse the Property on foot.

(k) *Hazardous Substances.* The storage, dumping, or other disposal of toxic and/or hazardous materials or non-compostable refuse, except for the above ground storage and use of fuels, fertilizers, treated lumber, and legal chemicals as necessary for agricultural or other operations permitted by this Agreement. All materials shall be stored in accordance with all applicable laws and regulations, and in a manner which (i) prevents spillage, leakage, and dumping, (ii) prevents soil and surface water or groundwater contamination, and (iii) is otherwise consistent with the preservation of the Conservation Values of the Property. Notwithstanding anything in this Agreement to the contrary, this prohibition does not make Grantee an owner of the Property, nor does it permit Grantee to control any use of the Property by Grantor which may result in the storage, dumping, or disposal of hazardous or toxic materials; provided, however, that Grantee may bring an action to protect the Conservation Values of the property, as described in this Agreement. This prohibition does not impose liability on Grantee, nor shall Grantee be construed as having liability as a "responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act or similar federal or state statutes.

(l) *Removal of Vegetation.* Cutting, removing, or otherwise destroying trees, grasses, or other vegetation, except as specifically permitted in Paragraph 4 below.

(m) *Timbering.* No timbering is permitted except as set forth in Paragraph 4.

4. Reserved Rights. Subject to the terms and conditions of this Agreement, Grantor shall continue to own and control the Property. To that end, Grantor reserves to himself, and to his heirs, successors, and assigns, all rights accruing from 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 the purposes of this Agreement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- a. *Recreational Use.* Grantor shall be permitted to engage in and permit others to engage in passive recreational uses of the Property, including without limitation walking, hiking, fishing, horseback riding, bicycle riding, outdoor and environmental education activities, and animal or plant observation.
- b. *Transfer of Property.* Subject to the terms of Paragraphs 17 and 18 below, Grantor shall be permitted to sell, gift, mortgage, lease, or otherwise convey the Property. Grantor agrees that any mortgage of the Property shall be subordinate to the terms of this Agreement.
- c. *Landscaping and Maintenance.* Provided and on the condition that such use is in full compliance with applicable law, and does not have an otherwise detrimental effect on the Conservation Values of the Property, Grantor may perform routine grounds-keeping and landscape maintenance on the Property, including without limitation (i) trimming and removal of grass and bushes, (ii) irrigation for landscaping purposes, and (iii) application of chemical and non-chemical based fertilizers, herbicides, pesticides and fungicides.
- d. *Trails and Recreation Areas.* Grantor shall be permitted to develop and construct unpaved agricultural and forestry roads, as well as fire lanes, pedestrian trails and associated nature viewing blinds, picnic tables, and benches for passive recreational use on the Property. Paving of said trails and agricultural and forestry roads is permitted only when it serves to protect the Conservation Values of the Property, such as preventing soil erosion, and is subject to the prior written approval of Grantee. Where feasible, equestrian trails are permitted, provided their use does not negatively impact the natural and hydrologic features of the land and is consistent with maintaining the Conservation Values of the Property. Motorized vehicles are prohibited on trails except as set forth in Paragraph 3(j) above.
- e. *Timbering.* Grantor shall be permitted to prune, cut down, or otherwise harvest trees (i) to prevent hazard, disease, or fire on the property, (ii) for firewood collection for Grantor's individual use, (iii) to restore or enhance the hydrology and protection of native plant species on the Property, (iv) as called for and consistent with a management plan prepared in consultation with a registered professional forester or other conservation professional and approved in writing by the Grantee, that is designed to protect the Conservation Values of the Property, including without limitation scenic and wildlife habitat values, or (v) to the minimum extent required for the Property to remain qualified under the North Carolina forestry present-use valuation property tax program ("PUV") [Grantor and Grantor acknowledge that, as of the date of this Agreement, no such requirements exist because, pursuant to N.C. GEN. STAT. §105-277.3(d1),

the production and income requirements of the PUV program do not apply to properties subject to an enforceable conservation easement].

f. Agriculture. Provided that agricultural activities are consistent in size and scope with present and recent historic practices on the Property, and with the preservation of the Conservation Values, Grantor shall be permitted to

- i. breed, raise, and pasture livestock or horses,
- ii. breed and raise bees, poultry, and other fowl,
- iii. plant, raise, and harvest crops,
- iv. perform primary processing of, and store and sell, crops and related products, including direct sales to the public,
- v. build and maintain barns, sheds, fences, or other nonresidential structures to enclose or house animals, equipment, tools, and agricultural and forestry products, and
- vi. build and maintain livestock water wells.

Under no circumstances, (A) shall there be any increase in the size or scope of permitted activities on the Property to the level of industrial or factory type livestock operations (i.e., operations characterized by the continuous confinement of livestock in tightly confined environments for the purpose of raising, feeding and fattening for market), (B) shall any slaughtering facilities or hog operations be allowed, or (C) shall areas predominantly forested in hardwoods as of the date of this Agreement be cleared to allow for agricultural operations. All structures permitted by this Paragraph 4(f), individually and combined, must be consistent with the purposes of this Agreement, and protection of the Conservation Values of the Property.

Grantor shall manage the Property in accordance with sound agricultural soil and water conservation practices.

g. Roads and Driveways. Grantor shall be permitted to use, improve, replace, and maintain the roads and driveways described in the Baseline Report. All road design, improvement, construction and maintenance shall be conducted in a manner that minimizes the impact on the natural and hydrologic features of the land consistent with maintaining the Conservation Values of the Property. Grantor must obtain Grantee's prior written consent to any new roadway construction or to any improvements to existing roads that involve replacing, widening, extending, or significantly altering the surface of the road. The provisions of this section do not limit the Grantor's rights to build and maintain roads to support agricultural uses of the land.

- h. *Replacement of Improvements.* In the event of destruction, deterioration or obsolescence of any permitted structures, fences, corrals, roads or other improvements and facilities, whether existing at the date hereof or constructed subsequently pursuant to the provisions of this Agreement, Grantor may replace the same with structures, fences, corrals, roads, or other improvements and facilities of similar size, function, capacity, appearance, and location.
- i. *Utility Easements.* The property is subject to utility easements of record as of the date hereof in the Cabarrus County Public Registry and related rights of access as set forth in said easements (the "Existing Easements"). Nothing in this easement is designed to interfere or conflict with the terms and rights conveyed by the Existing Easements.

5. Notice of Intention to Undertake Certain Permitted Actions. Grantor shall obtain Grantee's prior written approval before undertaking or permitting any use of the Property as described under subparagraph 4(d), (f)(v) and (g). The purpose of requiring Grantee approval prior to undertaking certain permitted activities is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purposes of this Agreement. Whenever Grantee approval is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Agreement.

5.1 Grantee's Approval. Where Grantee approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request therefor. Except as otherwise expressly provided herein, Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purposes of this Agreement.

6. Access.

6.1 General Access Provisions. Subject to the provisions of this section, Grantee shall have the right to access the conserved property from Davidson Road and over and across the 60' Perpetual Access Easement (as described in Exhibit A) to enter the Property at reasonable times, and upon prior reasonable notice to Grantor (except that such notice is not required when Grantee believes in good faith that the Conservation Values of the Property are at imminent and substantial risk), in order to (i) exercise its rights granted hereunder, including without limitation the preservation and maintenance of the Property; (ii) to monitor Grantor's compliance with and otherwise enforce the terms of this Agreement; (iii) to conduct scientific studies, monitoring and management of rare species populations and their habitat, (iv) to conduct educational and conservation projects, or to conduct educational, non-commercial natural history walking tours open to the public under the control and supervision of Grantee, provided that Grantee in the conduct of such tours shall observe all conditions, restrictions and limitations imposed on Grantor through this Agreement. Grantee shall indemnify, defend and hold Grantor harmless from and against any claims, damages or liability (including reasonable attorneys' fees) resulting from Grantee's exercise of its right of entry, except to the extent that such claims, damages or liability

arise from the negligence or intentional acts of Grantor. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property as long as such use does not interfere with the Conservation Values. The general public is not granted access to the Property under this Agreement.

6.2 Access during Ownership by Frank A. Chester, Jr. During Frank A. Chester Jr.'s ownership of the Property, (a) Grantee will notify Grantor of all plans to access the property and any access by Grantor will require Mr. Chester's approval, with the parties agreeing that Grantor's approval of such access will not be unreasonably withheld, and (b) unless otherwise agreed by Grantor, access to the Property shall be limited to pedestrian and maintenance vehicles access. Notwithstanding any provision in this Agreement to the contrary, the provisions of this subparagraph 6.2 are for the sole benefit of Frank A. Chester, Jr., individually, for his lifetime, and are not intended to run with the land or be binding on, or inure to the benefit of, his heirs, successors, assigns, or future owners of all or any portion of the Property.

7. Costs and Liabilities. Grantor retains all responsibility and shall bear all costs related to the ownership, use, operation, upkeep, and maintenance of the Property (excluding improvements made by Grantee at its own cost and expense). Grantor shall keep the Property free of any and all liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor, unless such lien is subordinate to this Agreement.

Grantee shall maintain a policy of commercial general liability insurance naming Grantor as an additional insured, and Grantee shall provide Grantor with evidence of such coverage upon request.

8. Taxes. Grantor shall pay before delinquency all property or other taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent governmental authority (hereinafter referred to collectively as "**Taxes**"), including any Taxes imposed upon, or incurred as a result of, this Agreement, and shall furnish Grantee with satisfactory evidence of payment upon request.

9. Representations and Warranties. Grantor represents and warrants that, to the best of his knowledge:

(a) Grantor is the sole owner of the Property in fee simple and has good right to grant and convey the conservation easement in accordance with the terms of this Agreement.

(b) There is legal access to the property, as described on Exhibit A attached.

(c) Any mortgages or liens on the Property are and shall remain subordinate to the terms of this Agreement.

(d) The Property is free and clear of any and all encumbrances, except easements of record, none of which would nullify, impair or limit in any way the terms or effect of this Agreement.

(e) Except for the above ground storage and use of fuels, fertilizers, treated lumber, and legal chemicals as necessary for agricultural or other operations permitted by this Agreement, no substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment (collectively, "Hazardous Materials") exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Property.

(f) There are not any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulation, and requirements.

(g) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use (collectively, "Applicable Law").

(h) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property.

(i) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violations of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its uses, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claim, demands, or orders.

(j) Neither the Property, nor any portion thereof, is or shall be used to satisfy mitigation requirements under 33 U.S.C. §1344 or N.C. Gen. Stat. §143-214-11.

Grantor agrees to indemnify, defend and hold harmless Grantee, its officers, directors, shareholders, employees, agents, successors and assigns, from and against all claims, damages, actions, proceedings, costs, liens, requirements, judgments, losses, penalties, fines, settlements and liabilities of any kind (including without limitation attorneys' fees and court costs, and consultant and expert witness fees) arising in any manner, directly or indirectly, out of or by reason of (a) any breach of any representation or covenant of Grantor in this Agreement, (b) any violation or alleged violation of Applicable Law by Grantor with respect to the Property, and/or (c) any presence, generation, treatment, storage, disposal, transport, release, threatened release or suspected release of any Hazardous Material brought on, in, under, about, to or from the Property.

10. Title Warranty; Quiet Enjoyment. Grantor shall defend its title against the claims of all persons whomsoever, and Grantor covenants that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Agreement.

11. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Agreement 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 Agreement, 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 Agreement, 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 Agreement or injury to any Conservation Values protected by this Agreement, including damages for the loss of scenic, aesthetic or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. Grantee shall also be entitled to recover all reasonable attorney fees, court costs, and other expenses incident to enforcement of this Agreement.

11.1 Costs of Enforcement. Any costs incurred by Grantee in successfully enforcing the terms of this Agreement against Grantor, its successors or assigns, including without limitation reasonable costs of court and attorney's fees, and any reasonable costs of restoration necessitated by Grantor's violation of the terms of this Agreement, shall be borne by Grantor.

11.2 Grantee's Discretion. Enforcement of the terms of this Agreement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Agreement or of any of Grantee's rights. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

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

11.4 Acts Beyond Grantor's Control. Nothing contained in this Agreement 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 Grantor's control, including without limitation fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; and nothing in this Agreement shall require Grantor to take any action to restore the condition of the Property after any act or event over which Grantor has no control.

12. Mediation. If a dispute arises between the parties concerning the consistency of any proposed use or activity with this Agreement, Grantor agrees not to proceed with the use or activity pending resolution of the dispute, and either party may refer the dispute to mediation before, and as a condition to, any right of either to institute litigation. Either party may invoke the mediation requirement under this Paragraph 12 by furnishing written notice to the other of its intent to mediate. The notice shall specify the issue(s) for mediation, including the amount, if any, of monetary or other relief at issue. Upon receipt of such notice, the recipient may within five (5) business days deliver to the other a notice of other issue(s) or relief for mediation. The parties

shall work together in good faith to conclude mediation regarding the indicated issue(s) no later than sixty (60) days from the date of the initial notice of intent to mediate. Mediation shall occur in Charlotte, North Carolina. The parties may either agree on a mediator within ten (10) days of the date of the initial notice of intent to mediate or, if the parties have not or cannot so agree, the mediator shall be named by JAMS/Endispute, with the party issuing the initial notice of intent to mediate bearing the obligation to arrange for mediator services through this organization (or any other mediation organization on which the parties may agree in writing) no later than five (5) days from the expiration of the ten (10) day period for appointment of a mediator by agreement of the parties. The parties shall bear equally all costs and expenses of mediation, including mediator compensation and expenses, subject to any other agreement regarding allocation of such costs and expenses the parties may achieve in context of a particular dispute.

If either party refuses to participate in good faith in the mediation process required under this Paragraph 12, the party shall have failed to fulfill an absolute condition precedent to its right to pursue litigation or any other means of resolving any issue to be mediated. Any statute or other period of limitations shall be tolled during the time the parties are in good faith fulfilling their obligations of mediation under this Paragraph 12, but such tolling shall not apply to any claim or issue sought to be resolved by a party that shall have failed to participate in good faith in the mediation process.

13. Extinguishment. If circumstances arise in the future that render the purposes of this Agreement impossible to accomplish, this Agreement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and Grantee shall be entitled to a proportionate share of the proceeds, after the satisfaction of prior claims, from any sale, exchange or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

14. Real Property Interest. The Easement constitutes a real property interest immediately vested in Grantee.

15. Condemnation. If the Property or any other right or interest hereunder is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

If all or any of the Property is taken under the power of eminent domain by a public, corporate, or other entity, or otherwise acquired by such entity through a purchase or settlement in lieu of condemnation, Grantor and Grantee shall join in appropriate proceedings at the time of such condemnation to recover the full fair market value (without regard to any diminution in value attributable to the Agreement) of the interests in the Property subject to the condemnation and all incidental or direct damages resulting therefrom. Prior to the payment of any expenses reasonably incurred by the parties to this Agreement in connection with such condemnation, Grantee shall be entitled to its proportionate share from the recovered proceeds. All such proceeds used by Grantee shall be used in a manner consistent with the conservation purposes of this Agreement as of the effective date of this grant.

16. Assignment. This Agreement and other rights and interests hereunder are transferable, but Grantee may assign its rights and obligations hereunder only to an organization that is a qualified organization at the time of the transfer under Section 170(h) of the Code, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder and authorized to acquire and hold conservation easements under the Act, or any successor provision thereto. As a condition of such transfer, Grantee shall require that the conservation purposes of this Agreement continue to be carried out.

17. Subsequent Transfers. Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument by which any interest, including without limitation a leasehold interest, in all or a portion of the Property is transferred. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure to perform any act required by this provision shall not impair the validity of this Agreement or limit its enforceability in any way.

18. Right of First Refusal. Except in connection with a transfer of the Property to a Related Party, as defined below, Grantor hereby grants to Grantee a right of first refusal to purchase the Property, or any portion thereof, on the terms and conditions set forth below. If at any time Grantor receives an offer to purchase the Property, or any portion thereof, (the "**Option Parcel**") acceptable to it from a prospective buyer (each such offer, an "**Offer**"), Grantor shall notify Grantee in writing of the economic terms of the Offer. Grantee shall have the right, for a period of thirty (30) days following receipt of notice from Grantor (the "**Option Period**"), to elect to purchase the Option Parcel by entering into a purchase agreement with Grantor on the same economic terms contained in such Offer, using the most current revision of the North Carolina Bar Association Form No. 2 Offer to Purchase and Contract. In the event that: (i) Grantee fails to respond to Grantor's notice within the Option Period, or (ii) Grantee rejects the terms and conditions of the Offer, or (iii) the sale of the Option Parcel to Grantee is not consummated within sixty (60) days after the expiration of the Option Period, then Grantee's right of first refusal with respect to the Offer shall lapse, and Grantor shall be permitted to sell the Option Parcel to the prospective buyer. Notwithstanding the foregoing, (a) if Grantor does not consummate a sale to the prospective buyer on the terms contained in the Offer, then Grantor shall again comply with the requirements of this Paragraph 18 prior to selling all or any portion of the Property to another prospective buyer (or to the same prospective buyer on different terms) and (b) the right of first refusal contained in this Paragraph 18 shall remain binding on subsequent owners of the Property. The rights granted in this Paragraph 18 shall not apply to a transfer by Grantor to a Related Party. For purposes of this Paragraph 18, "Related Party" shall mean, in respect of an individual Grantor, a spouse, any issue, spouse of issue, or ancestor of the Grantor, a trust for the sole benefit of any such Related Party or Parties, or a corporation, partnership, limited liability company or other entity owned entirely by the Grantor and Related Parties of the Grantor.

19. Estoppel Certificate. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any reasonable document, including an estoppel certificate, which certifies, to the knowledge of Grantee, Grantor's compliance with any obligation of Grantor contained herein and otherwise evidences the status of the Agreement as may be reasonably requested by Grantor.

20. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: Frank A. Chester, Jr.
5075 Davidson Road
Davidson, NC 28036

With a Copy To: Janet Chester Purser
5221 Davidson Road
Davidson, NC 28036

To Grantee: DAVIDSON LANDS CONSERVANCY
P.O. Box 1952
Davidson, NC 28036
Attention: Executive Director

or to such other address as either party from time to time shall designate by written notice to the other.

21. Recordation. Grantee shall record this instrument in the office of the Register of Deeds for Cabarrus County, North Carolina, and may re-record it at any time as may be required to preserve its rights in the Easement.

22. General Provisions.

(a) Controlling Law. The interpretation and performance of this Agreement shall be governed by the laws of the State of North Carolina.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed to effect the purposes of this Agreement and the policy and purpose of the statutes referenced herein. If any provision in this instrument is found to be ambiguous, an interpretation consistent with such purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

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

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Agreement, all of which are merged herein.

(e) Amendment. If circumstances arise under which an amendment to or modification of this Agreement would be appropriate, Grantor and Grantee may amend this Agreement provided that no amendment shall be allowed that will affect the qualification of this Agreement or the status of Grantee under any applicable laws, including N.C. GEN. STAT. §121-34 or any successor statute, or Section 170(h) of the Code, and any amendment shall be consistent with (i) Grantee's policies pertaining to easement amendments and (ii) the purposes of this Agreement, and shall not affect its perpetual duration. Any such amendment or modification must be executed by both Grantor and Grantee and shall be recorded in the public registry of Cabarrus County. If an amendment is made at Grantor's request, Grantor shall be solely responsible for all costs incurred by Grantee in connection with its evaluation of such amendment and Grantor, as a precondition to Grantee's execution of such amendment, shall reimburse Grantee for any expenses incurred as a result of Grantee's evaluation of such proposed amendment, including without limitation compensation for Grantee's staff time, transaction-related costs and fees such as fees charged to Grantee by third-party experts or consultants, and reasonable attorney fees.

(f) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(g) Successors. The covenants, terms, conditions and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property.

(h) Termination of Rights and Obligations. A party's rights and obligations under this Agreement shall terminate upon the transfer of the party's interest in the 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 Agreement shall not be affected by such transfer, the transferee having the rights and obligations of the transferring party.

(i) Successor Limitation. If Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Code, or to be authorized to acquire and hold conservation easements under N.C. GEN. STAT. §121-34, and a prior assignment is not made pursuant to Paragraph 16 above, then Grantee's rights and obligations under this Agreement 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 Paragraph 16.

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

(k) Counterparts. The parties may execute this instrument in two or more counterparts, which shall in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of

any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(l) Merger. The parties agree that the terms of this Agreement shall survive any merger of the fee and easement interest in the Property.

(m) Ownership of Property. As provided in Section 4 above, subject to the terms and conditions of this Agreement, (i) Grantor shall continue to own and control the Property, and (ii) Davidson Lands Conservancy is not the fee simple owner of the Property.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Agreement to be executed as of the day and year first above written.

{Signature Pages to Follow}

GRANTOR:

Frank A. Chester, Jr. (SEAL)
Frank A. Chester, Jr

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Mitta P. Isley, a Notary Public in and for said County and State, do hereby certify that **Frank A. Chester, Jr.** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

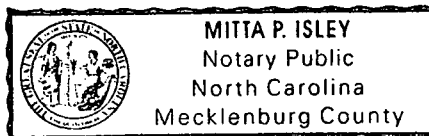
WITNESS my hand and notarial seal this 21st day of February, 2023.

Mitta P. Isley

Mitta P. Isley, Notary Public

My commission expires: July 19, 2025

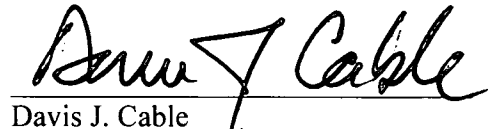
[NOTARIAL SEAL]



GRANTEE:

DAVIDSON LANDS CONSERVANCY, a
North Carolina nonprofit corporation

By:



Davis J. Cable

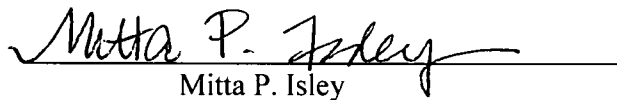
Its:

Chief Executive Officer

STATE OF NORTH CAROLINA**COUNTY OF MECKLENBURG**

I, Mitta P. Isley, a Notary Public of the County and State aforesaid, certify that Davis J. Cable personally came before me this day and acknowledged that he is the Chief Executive Officer of **DAVIDSON LANDS CONSERVANCY**, a North Carolina nonprofit corporation, and that he, as Chief Executive Officer, being authorized to do so, executed the foregoing on behalf of the corporation. And the said Davis J. Cable acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and official stamp or seal, this the 21st day of February, 2023.



Mitta P. Isley

My Commission Expires: July 19, 2025

[NOTARY SEAL]

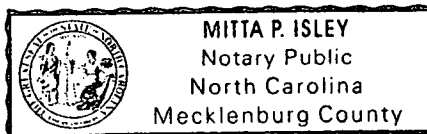


EXHIBIT A**Legal Description**

Lying and being in No.3 Township, Cabarrus County, North Carolina and being (i) that certain tract or parcel of land containing 44.149 acres, more or less, and designated as "Conservation Easement Tract One" and (ii) that certain tract or parcel of land containing 48.296 acres, more or less, and designated as "Conservation Easement Tract Two" ((i) and (ii) in total comprising the "**Conservation Easement Area**") all as shown on maps recorded in Map Book 95, at Pages 44 and 45, in the Cabarrus County Public Registry (together, the "Plat"); together with the right of access to and from Tract Two of said Conservation Easement Area over and across that certain 60' Perpetual Access Easement depicted on said Plat.