

## CONSERVATION EASEMENT AGREEMENT

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

BETWEEN:

Doug Wahlsten  
(hereinafter referred to as the "Grantor")  
OF THE FIRST PART

-and-

The Nature Conservancy of Canada, a Land Trust  
(hereinafter referred to as the "Grantee")  
OF THE SECOND PART

(The Grantor and the Grantee sometimes jointly referred to as the "Parties")

WHEREAS:

- A. the Grantor is the registered owner in fee simple of the land, as more fully defined and described on Schedule "A" attached hereto.
- B. the *Environmental Protection and Enhancement Act* (Alberta) (the "Act"), enables the registered owner of land to, by way of agreement, grant to a Qualified Organization, as defined in the Act, a conservation easement in respect of all or a part of the land for purposes set out in Section 22.1(2) of the Act.
- C. the Grantor wishes to grant and convey to the Grantee, a Qualified Organization, a conservation easement in perpetuity by way of this agreement (the "Agreement") in respect of land described and outlined on Schedule "A" attached hereto (the land hereinafter referred to as the "Property") for the purposes set out in herein.

### ARTICLE 1 – PARTIES' ACKNOWLEDGEMENT

- 1.1 All words used in this Agreement that are defined in the conservation easement provisions of the Act shall have the meaning assigned by the Act. Otherwise, unless the context otherwise requires, the words and phrases contained in this Agreement and the attached Schedules shall have the meanings as herein defined.
- 1.2 The Schedules attached to this Agreement are expressly incorporated into and form a part of this Agreement and are as follows:

Schedule "A" –Property

Schedule "B" - Restrictions and Property Management Principles  
Schedule "C" - Definitions and Notice Provisions  
Schedule "D" – Permitted Encumbrances  
Schedule "E" – Sketch Plan

1.3 A Report describing and documenting the natural values, features and uses of the Property at the time of this grant will be documented by the Grantee. The Parties agree that the Report will serve as an objective baseline information baseline to be used by the Grantee to monitor the condition and natural characteristics of the Property and monitor compliance with this Agreement. The Grantee will consult with the Grantor in preparing the Report. The Report shall be held with a copy of this Agreement at the offices of the Grantee and with the Grantor. No information from the Report shall be made available to the general public without the mutual oral or written consent of the Parties.

## **ARTICLE 2 – GRANT OF CONSERVATION EASEMENT**

- 2.1 The Grantor hereby grants and conveys to the Grantee by way of this Agreement a conservation easement to run with the Property in perpetuity.
- 2.2 The Grantor grants and gives this conservation easement to the Grantee freely, voluntarily, without any consideration or conditions, under seal, by way of a gift.
- 2.3 The purposes of the conservation easement are protecting, conserving and enhancing the Conservation Values, including, but not limited to the biological diversity of the Property, in particular its natural habitat for wildlife.
- 2.4 The covenants, terms and conditions of this Agreement, including but not limited to the Access Right, Restrictions and Property Management Principles, are conservation easement covenants enforceable in accordance with the Act and this Agreement. .

## **ARTICLE 3 - ACCESS RIGHT**

- 3.1 The Grantor hereby grants and conveys to the Grantee as a term of the conservation easement an access right to the Property for the purposes set out in Article 3.2 (the "Access Right").
- 3.2 The purposes of the Access Right are to enable the Grantee to:
  - (a) gain access to the Property in order to prepare the Report,
  - (b) determine through inspection, testing or otherwise, whether in its opinion the Conservation Values are respected and maintained and that the purposes of this Agreement are being achieved,
  - (c) determine whether the Restrictions, Property Management Principles and other obligations under this Agreement are being complied with,
  - (d) enforce the Agreement, and
  - (e) carry out any remediation, restoration or rehabilitation of the natural values of the Property

which in the Grantee's opinion are necessary or desirable.

- 3.3 The Grantee may designate parties to exercise the Access Right. The Grantee shall take reasonable measures to avoid interference with the Grantor's permitted use and enjoyment of the Property. Access shall be on foot, where possible, and if not possible, vehicles access will stay on trails designated for that purpose.
- 3.4 The Grantee shall exercise the Access Right in accordance with a scheduled appointment with the Grantor, giving consideration to the reasonable convenience of the Grantor. If the Parties cannot agree to a scheduled appointment, the Grantee may exercise the Access Right after providing a minimum of forty-eight (48) hours written notice to the Grantor, unless in the opinion of the Grantee there is an emergency or other circumstance which precludes the giving of such notice. In all cases, the Grantee shall confirm, in writing, to the Grantor that it entered the Property.

#### **ARTICLE 4 – RESTRICTIONS AND PROPERTY MANAGEMENT PRINCIPLES**

- 4.1 The Parties agree that the Restrictions on and Property Management Principles governing the Grantor's use and occupation of the Property as set out in Schedule "B" to this Agreement are terms of the conservation easement.
- 4.2 The Grantor covenants with the Grantee that the Grantor will observe and comply with the Restrictions and will cause any tenant, licensee or lessee of the Property or anyone for whom the Grantor is in law responsible, or for whom the Grantor holds the Property, to observe and comply with them.
- 4.3 The Grantor covenants with the Grantee that the Grantor will abide by the Property Management Principles and will cause any tenant, licensee or lessee of the Property or anyone for whom the Grantor is in law responsible, or for whom the Grantor holds the Property, to abide by them.
- 4.4 The Parties acknowledge that the Restrictions and Property Management Principles are terms of the conservation easement that are intended to, in perpetuity, maintain the Conservation Values of the Property. The Parties agree that if, through changes over time to the Property or activities relating to it, the Restrictions or Property Management Principles no longer, or will likely no longer, adequately support the Conservation Values, that they should be amended to better support them. Either Party may commence an amendment process by giving written notice to the other Party that the Restrictions, the Property Management Principles or both should be amended to better support the Conservation Values. Where such notice is given, the Parties agree to use their best efforts to negotiate, in good faith, amendments to the Restrictions, or Property Management Principles or both, so that the Conservation Values shall always be upheld. If the Parties do not reach agreement on amendments within 6 weeks of written notice, the Parties agree that the dispute resolution process set out in Article 8.4 shall apply to determine whether any amendments are required and to draw up any required amendments.

## **ARTICLE 5 – GRANTOR’S RIGHTS**

- 5.1 The Grantor may use, occupy and enjoy all the benefits of the Property subject only to the interests granted and requirements of this Agreement. The Grantee has no interest in the Property other than in this conservation easement Agreement.
- 5.2 The conservation easement granted in this Agreement does not apply to the existing buildings and structures on the Property, or to their replacements, provided that, in the Grantee’s reasonable opinion, the replacements do not offend the Restrictions, Property Management Principles or the Conservation Values.
- 5.3 Nothing in this Agreement grants a right of access to the general public.

## **ARTICLE 6 – GRANTEE’S RIGHTS**

- 6.1 The Grantee shall be entitled to register this Agreement against title to the Property. Upon registration of this Agreement under the *Land Titles Act* (Alberta), the terms of this conservation easement run with the land in perpetuity and may be enforced by the Grantee whether they are positive or negative in nature.
- 6.2 The Grantee may from time to time waive or release any of the Restrictions or from compliance with the Property Management Principles by an instrument in writing to the Grantor. Any releases or waivers require the Grantee’s prior consent in writing. The Grantee in its discretion may cancel a waiver or release by written notice to the Grantor.
- 6.3 The Parties acknowledge that there may be from time to time during the term of this Agreement, infringements that have not been waived by the Grantee in accordance with Article 6.2. Such infringements may be permitted by the Grantee so long as:
- a. the infringements are considered by the Grantee, in the Grantee’s sole and unfettered discretion, to be minor in nature and to not have a long-lasting effect, or
  - b. the aggregate effect of the infringements are considered by the Grantee, in the Grantee’s sole and unfettered discretion, to be minor in nature and to not have a long-lasting effect.

6.4 The Grantee shall have the right to publicize the existence of this Agreement, however the use of the Grantor's name or specific location of the Property may be used only with the prior oral or written consent of the Grantor.

## **ARTICLE 7– DEFAULT AND ENFORCEMENT**

- 7.1 This Agreement may be enforced by the Grantee, or by such other person appointed in accordance with section 22.1 of the *Environmental Protection and Enhancement Act*. Any rights of the Grantee in this Agreement to enforce the conservation easement may be exercised by a person appointed in accordance with section 22.1, if any.
- 7.2 The Grantee shall have the right to use all remedies available at law, in equity and pursuant to this Agreement, to enforce this Agreement.
- 7.3 This Agreement may be enforced by the Grantee upon the default of the Grantor of any provision or element herein, regardless of the degree or significance of the breach or default. However, subject to Article 7.5, prior to pursuing other remedies, the Grantee agrees to give the Grantor notice of default and sixty (60) days to remedy the same or make arrangements satisfactory to the Grantor party to remedy the default.
- 7.4 If the Grantee gives notice of default pursuant to Article 7.3, and the default has not been cured within the period provided for therein, the Grantee may serve on the Grantor a further notice setting out particulars of the Grantee's estimated maximum costs of remedying the default. The Grantor shall have ten (10) days from receipt of such notice to remedy the default or make arrangements satisfactory to the Grantee for remedying the default, and if the Grantor does not do so, the Grantee, by itself, its servants, employees, agents, contractors or designates, may enter upon the Property and cure the default. The Grantor shall reimburse the Grantee for any costs and expenses incurred thereby (including GST), up to the estimated maximum costs of remedying the default set out in the aforesaid notice. Such costs and expenses incurred by the Grantee shall, until paid by the Grantor, be a debt owed by the Grantor to the Grantee with interest as provided in Article 11.16 and the debt with such interest shall be a charge on the Property, and shall be recoverable by the Grantee in a court of law.
- 7.5 Nothing in this Agreement requires the Grantee to provide any notice of default prior to the Grantee's pursuing other remedies if in the Grantee's reasonable opinion a default or potential default may cause imminent harm to the Conservation Values. Without derogating from any other rights of the Grantee, if the Grantee reasonably believes that default will occur the Grantee may apply for injunctive relief to prohibit or prevent default or the continuance of default without providing any notice under Article 7.3.
- 7.6 The Grantee may, without reasons, determine not to enforce any or all of the terms or covenants herein contained without liability. Any failure to enforce or strictly enforce any of the terms or covenants in this Agreement shall not constitute a waiver of or abrogate any of the covenants or elements of this Agreement.

- 7.7 Any breach of the Restrictions by the Grantor shall be deemed to be a nuisance and every remedy allowed by law against a person causing or permitting a nuisance, whether public or private, may be exercised by the Grantee.
- 7.8 The interest of the Grantee shall continue notwithstanding a default under this Agreement.
- 7.9 The Parties acknowledge that damages to the Property based on market value will not usually adequately compensate for damage to ecological integrity, habitat alteration or other environmental harm. Accordingly, the parties agree that if required to adequately compensate the Grantee for the Grantor's violations of this Agreement, a court or other authority determining damages may base damages on restoration or replacement costs, whichever shall better compensate the Grantee.
- 7.10 The Grantor shall have the right to use all remedies available at law, in equity and pursuant to this Agreement, to enforce this Agreement in respect of any default or imminent default of any agreements or obligations of the Grantee.
- 7.11 The rights of the Grantee and the Grantor given in this Part are continuing and may be exercised from time to time, and as many times, as the circumstances may require.

#### **ARTICLE 8 – DISPUTE RESOLUTION**

- 8.1 In the event of a dispute between the Grantor and the Grantee arising out of, or in connection with this Agreement, the Parties agree, subject to Article 8.4, to attempt to resolve the dispute by way of mutual negotiations.
- 8.2 If the Parties fail to resolve the dispute through negotiations, the Parties may agree that the dispute be resolved in accordance with Article 8.3. Either Party may deem that mutual negotiations have failed by giving 48 hour written notice to the other Party.
- 8.3 Either Party may express that Party's willingness to resolve a matter in accordance with Article 8.4 by giving written notice to the other Party.. A Party may withdraw a written notice of a willingness to resolve a dispute in this manner at any time prior to acceptance in writing by the other Party.
- 8.4 The Parties agree that where a matter goes to mediation or arbitration that they are bound by the decision of the mediator or arbitrator. With respect to any mediation or arbitration, the Parties agree that:
- (a). The Parties shall enter into a written mediation or arbitration agreement within 14 days of the commencing of mediation or arbitration proceedings, setting out all particulars on the mediation or arbitration process that will lead to the resolution of the matter. If the Parties do not reach such agreement within 14 days, then the matter will be resolved in accordance with Article 8.4(b) below.
  - (b). Failing a written agreement under Article 8.4(a) above, the Parties agree that the matter will be resolved by arbitration in accordance with the Alberta *Arbitration Act*. The cost of the arbitration may be awarded against the parties or against either of them as the Arbitrator may decide. Unless the Parties otherwise agree prior to the commencement of arbitration, the arbitration shall take

place in the City of Calgary, Alberta. The Parties agree that the decision of the Arbitrator determined under the provisions of the *Arbitration Act* is final and binding.

8.5 Nothing in this Article or elsewhere in this Agreement regarding negotiation, mediation or arbitration limits or delays either Party's right to enforce this Agreement. Accordingly, if either party reasonably believes that the other is in default, that party shall have the right to use all remedies available at law, in equity, and pursuant to this Agreement, to enforce this Agreement without first attempting to negotiate or going to arbitration.

## **ARTICLE 9 - REPRESENTATIONS AND WARRANTIES**

9.1 The Grantor covenants and warrants that it is the legal and beneficial owner of the Property with good title thereto subject only to any covenants implied pursuant to Sections 65(1) and (2) of the *Land Titles Act* (Alberta) and the following encumbrances:

***ALL ENCUMBRANCES IF ANY WILL BE INSERTED HERE ONCE LAND TITLE IS RECEIVED***

9.2 The Grantee covenants and warrants that it is a body corporate incorporated under Part II of the *Canada Corporations Act*, that it is a charity registered under the *Income Tax Act* (Canada), and that it is a Qualified Organization under subparagraph 22.1(1)(e)(iv) of the Act and has the right to enter into this Agreement.

9.3 The Grantor covenants and agrees to comply with the terms of this Agreement, including, without limitation, that the use and management of the Property shall be consistent with the Property Management Principles and shall not be in contravention of the Restrictions.

9.4 The Grantee covenants and agrees to comply with the terms of this Agreement.

## **ARTICLE 10 - LIABILITY, LIMITATIONS, FORCE MAJEURE, INDEMNITY**

10.1 A person who once held title to the Property shall not be liable to the Grantee for any breach of or default in the obligations under this Agreement owed by that person's successor in title provided that:

- (a) a transfer has been registered with the Land Titles Office of all of that person's interest in the Property, and
- (b) that person provided to the Grantee notice of such transfer pursuant to Article 10.2 and the acknowledgment required pursuant to Article 10.3.

10.2 A qualified organization that once held the interests granted in this Agreement shall not be liable to the Grantor for any breach of or default in the obligations under this Agreement owed by that qualified organizations successor provided that:

- (a) the qualified organization's assigned all of its interest in the conservation easement in accordance with the Act , and
- (b) the qualified organization gave notice to the Grantor of the assignment in accordance with the Act.

- 10.3 Neither the Grantor nor the Grantee shall be liable to the other under this Agreement for any damage to or change in the Property resulting from causes beyond the reasonable control of such party including, without limitation, accidental fire, flood, storm, earth movement, trespass, insect plague or disease. The Grantor shall not be obligated to send any notice to the Grantee, and the Grantee shall not be entitled to bring any action against the Grantor with respect to any prudent activity undertaken by the Grantor in a good faith effort to prevent, abate, or mitigate injury to the Property from fire, flood, storm, earth movement, acts of war, and similar causes beyond the control of the Grantor. The Grantor shall promptly inform the Grantee of any injury or damage to the Property which occurs as a result of such causes.
- 10.4 The Grantor hereby indemnifies and saves harmless the Grantee, its directors, officers, employees, agents and contractors from and against any and all actions, causes of actions, suits, claims, demands, awards, losses, liabilities, damages, costs and expenses of any kind whatsoever (including legal fees and disbursements on a solicitor and his own client basis) incurred by or on behalf of the Grantee or its directors, officers, employees, agents, contractors and designates arising out of or occasioned by any act or omission, negligent or otherwise, in the use, occupation, operation and maintenance of the Property by the Grantor, or anyone for whom the Grantor is in law responsible, or in the discharge of the Grantor's responsibilities associated with the Access Right or arising as a direct or indirect result of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release of hazardous substances from the Property either onto any lands (including the Property), into the atmosphere or into any water.
- 10.5 Except in respect of the Grantee's operations on the Property, the Grantor agrees to bear all costs of operation, upkeep and maintenance of the Property, in accordance with this Agreement. Subject to Article 10.5, the Grantor agrees to indemnify the Grantee against all actions, causes of actions, suits, claims, demands, awards, losses, liabilities, damages, costs and expenses, including legal fees and disbursements on a solicitor and client basis, arising from the Grantor's operation, upkeep, and maintenance activities.
- 10.6 Unless the Grantor, or those acting under the Grantor, has been negligent or wilful, the indemnification in Article 10.4 does not apply in instances where the Grantee's activities on the Property result in physical or personal damage or liability exposures. In respect of such instances the Grantee agrees to indemnify the Grantor against all actions, causes of actions, suits, claims, demands, awards, losses, liabilities, damages, costs and expenses, including legal fees and disbursements on a solicitor and client basis for such damage or liability for which the Grantee is responsible.
- 10.7 The Grantor agrees to indemnify the Grantee against all actions, causes of actions, suits, claims, demands, awards, losses, liabilities, damages, costs and expenses, including legal fees and disbursements on a solicitor and client basis for damage or liability arising as a result of the



presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release of hazardous substances on or onto the Property.

- 10.8 The indemnification obligations of the Parties shall survive the termination of this Agreement.

## **ARTICLE 11 - MISCELLANEOUS PROVISIONS**

- 11.1 Notice of change of interest - The Grantor shall give notice to the Grantee of any change in ownership of or any interest in the Property and the Grantee shall give notice to the Grantor of any assignment of the interest of the Grantee under this Agreement. Any such notice shall include the name and address of the new party and shall be given at least ten (10) days prior to the change of interest.
- 11.2 Priority of interest of the Grantee - The Grantor shall not transfer or permit any mortgagee to transfer, any ownership interest in the Property without requiring the transferee to acknowledge in writing (by acknowledgment addressed and delivered to the Grantee) the priority of this Agreement and the interest of the Grantee thereunder, and the Grantor shall not lease or licence the Property or any part thereof without such lease or licence being made expressly subject to this Agreement. The Grantor further agrees that it shall not seek to extinguish or reduce the effect of the Easement or the interest of the Grantee hereunder at any time.
- 11.3 Registration - The Grantee shall register this Agreement against title to the Property and the Grantor shall execute any document that may be required to allow such registration.
- 11.4 Failure or delay of enforcement - The failure or delay of either party to enforce any of its rights pursuant to this Agreement shall not be deemed to be a waiver of such rights and shall not affect the ability of such party to enforce such rights in the future.
- 11.5 Time of the essence - Time shall be the essence of this Agreement and shall be deemed to remain so notwithstanding any extension of any time limit.
- 11.6 Severability - All terms and provisions of this Agreement, including, without limitation each of the Restrictions, shall be severable and should any terms or provisions be declared invalid or unenforceable, the validity and enforceability of the remaining terms and provisions shall not be affected.
- 11.7 Costs - Except as expressly provided herein or ordered by any court or tribunal, mediator or arbitrator, each party shall be responsible for its own legal fees and related expenses arising from the negotiation and implementation of this Agreement or from any act in pursuance thereof.
- 11.8 Entire Agreement - This Agreement embodies the entire Agreement of the Parties with regard to the matters dealt with herein, and no understandings or agreements, verbal, collateral or otherwise, exist between the Parties except as herein expressly set out.
- 11.9 Headings - The headings in the body of this Agreement form no part of the Agreement and shall be

deemed to be inserted for convenience of reference only.

- 11.10 Gender and Number - This Agreement shall be read with such changes of gender and number as the context requires. Any reference to a person shall be deemed to include a corporation, partnership or trust, as the context requires.
- 11.11 Applicable law - This Agreement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Alberta.
- 11.12 Construction - This Agreement shall be interpreted and construed in favor of maintaining the Conservation Values and enforcement of the Restrictions and Property Management Principles.
- 11.13 Amendment - This Agreement may be amended by the Parties only upon the execution of an Amending Agreement and upon satisfaction of all statutory requirements under the Act and which shall subsequently be registered at the Land Titles Office.
- 11.14 Further assurances - Each party at the request of the other party shall execute and deliver such assurances and do such other acts as may be reasonably required or desirable to give the full effect to the provisions and intent of this Agreement.
- 11.15 Joint and Several - Whenever the Grantor should be comprised of more than one person, the obligations of the Grantor hereunder shall be joint and several.
- 11.16 Interest - Any amount required to be paid by any party hereunder (hereinafter referred to as the "Payor") by reason of the default of the other party (hereinafter referred to as the "Defaulting Party") shall bear interest from the date the amount was paid by the Payor until the date of repayment by the Defaulting Party at a rate which is the lesser of:
- (a) two (2) percentage points above the prime rate of interest from time to time charged by the Bank of Canada, or
  - (b) the maximum rate allowed by law.
- 11.17 Enurement - This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, successors and assigns.
- 11.18 Assignment - The Parties agree that in the event of the Grantee's dissolution, bankruptcy, inability to enforce this Agreement or discharge its obligations under this Agreement, the Grantee shall have the right to assign its interest in this Agreement to a Qualified Organization of its choice.
- 11.19 Counterpart - This Agreement may be executed in counterpart and all such counterparts taken together shall constitute one fully executed Agreement.
- 11.20 Fax - Execution of this Agreement may be made by either party by telefax or similar system reproducing the original with the necessary signatures and initials. Any notice required to be given shall be deemed to be made when the telefax is received by the receiving party, or its agent or solicitor. The party sending such telefax shall immediately send or deliver the original

correspondence to the receiver of the telefax.

IN WITNESS WHEREOF the Grantor and the Grantee have executed this Agreement on the day and year first above written.

## **SCHEDULE "B"**

Attached to and forming part of the Conservation Easement Agreement between Doug Wahlsten, of the First Part, and The Nature Conservancy of Canada, of the Second Part, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

### **Restrictions**

#### 1.0 Definitions and Interpretation:

In these Restrictions:

"Agreement" means the above referenced Conservation Easement Agreement and its Schedules, including this Schedule "B".

"Legislated Purposes" means the purposes for which these Restrictions may be entered into pursuant to the Act.

Other capitalized terms used in these Restrictions that are defined elsewhere in this Agreement shall have the respective meanings ascribed to them in this Agreement.

Wherever the term "Property" is used in these restrictions, such term shall be construed to apply to any and all parts of the Property and to any water thereon.

#### 1.1 Restrictions applicable to all parts of the Property:

- a. Other than set out herein, it is understood that this Agreement imposes no other obligations or restrictions upon the Grantor and that neither it nor their successors, assigns, leases, nor any other person or party claiming under them shall, in any way, be hereby restricted from utilizing all of the Property in the customary manner for hunting and agricultural activities such as water development and maintenance of existing cultivated fields. Noxious weed control and emergency control of pests necessary to protect the public good are allowed and will be the responsibility of the Grantor, subject to federal and provincial statutes and regulations.
- b. To maintain and conserve the existing conservation values of the Property the Grantor acknowledges and agrees with the following RESTRICTIONS and PROPERTY MANAGEMENT PRINCIPLES and shall not conduct pursue or permit the following:
  1. The division, subdivision of the Property or any action, which creates an actual or defacto

subdivision of the Property.

2. *The construction of additional buildings, structures, roads, or facilities except for the construction of one building which may be used as a residence or for another purpose as pre-approved by NCC. No more than \_\_\_\_\_ acres may be disturbed for the building site. The NCC must be consulted during the planning process and shall be required to authorize the construction plans prior to construction.*
3. *The clearing of any trees, except as allowed by the woodlot management plan (see property management principles) or any cultivation on the property.*
4. The draining or significant alteration of naturally occurring lakes, ponds, streams or wetlands or the alteration in any way of the topography of the surface of the ground on the Property.
5. *The intentional introduction of non-native species of plants or animals except for traditional domestic uses established and existing as at the time of the signing of this Easement or within the \_\_\_\_\_ acre building site (e.g., the pets such as dogs and cats; domestic gardens).*
6. The dumping or disposing of toxic or non-compostable garbage or material or any garbage or material that threatens the Property's natural or scenic qualities with the exception of those sites identified in the Report. The necessary and proper use of chemical fertilizers, herbicides or pesticides are not considered dumping or disposing.
7. Vehicle use off of existing roads and travel-ways in a manner which may result in:
  - i. erosion or compaction of the soil;
  - ii. impact on the natural appearance of the Property; or
  - iii. interference with vegetation or the natural habitats of those animal species occurring on the Property.
8. The establishment or maintenance of commercial feedlot facilities confined feeding operation or activities or intensive livestock operations.
9. Exploration or extraction of oil, gas, and other minerals, rock, gravel, or sand (collectively the "Minerals") found in, on, or under the Property is prohibited by open-pit or surface mining methods. Except for rights granted to third parties prior to entering into this Agreement (provided that such rights are registered on the title to the Property) any right of entry to the Property for the purposes of mining, drilling, or extraction (in any way) of any Minerals must be conducted pursuant to the Alberta Surface Rights Act and shall follow those management practices as prescribed by the EUB in A Revised Guidelines for Minimizing Disturbance on Native Prairie Areas, Informational Letter #96-9 or its replacement, except where an order is issued under the Surface Rights Act, and then only with the express written consent of the Grantee, which consent may be withheld at the sole discretion of the Grantee.
10. The use of chemical herbicides, pesticides or fertilizers save and except where necessary for reasonable ranching and agricultural activity, including the use of herbicides to control weeds on

the Property and then only in the amounts and with that frequency of application which constitutes the minimum necessary to accomplish weed containment or control, and provided further there shall be no application in any circumstance of any such chemicals by means of airborne mechanized transportation including airplanes and helicopters.

11. The commercial removal of trees.
12. Activities that would pollute, degrade, or cause unreasonable or detrimental effects on riparian habitat, natural watercourses, wetlands or other bodies of water, whether surface or subsurface.
13. Commercial or industrial facilities or activities on the Property, other than those expressly permitted in this easement, including but not limited to, any restaurant, night club, campground, trailer park, hotel, motel, swimming pool, retail outlet or facility for the manufacture or distribution of any product.
14. Constructing, conducting, or operating:
  - i. a game farm, or the raising or holding of game farm animals on the Property. Game farm animals include:
    - a. those addressed in the Alberta Livestock Industry Diversification Act;
    - b. penned, enclosed or privately-owned caribou, black bear, grizzly bear, mountain lion, white-tailed deer, mule deer, black-tailed deer, elk, moose, antelope, bighorn sheep, mountain goat, red deer;
    - c. any other cloven-hoofed ungulate indigenous to Alberta; or
    - d. any animal which could interbreed with or spread disease to any cloven-hoofed ungulate indigenous to Alberta.
  - ii. aircraft facilities or aircraft land facilities on the Property;
  - iii. any towers, and any associated buildings or access roads except with prior written approval by Grantee or as required by law.
15. *Commercial recreational activities of any kind, except for a bed and breakfast business in the main residence that is consistent with the Restrictions and Property Management Principles.*
16. Construct, maintain or erect any commercial signs or billboards on the Property. Signage of 30 square feet or less may be used for:
  - i. stating the name of the owner of the Property;
  - ii. advising that the area is protected by this easement;
  - iii. deterring any unauthorized entry or use;
  - iv. or the advertisement for the sale of the Property.
17. Additional utility structures and systems, unless such structures or systems have received the prior written approval of the Grantee or are required by law. Except as required by law, unless prior written approval is obtained from the Grantee any utility structures must be buried.
18. The building of wildlife-proof fences, except in localized areas as needed to control or prevent wildlife damage to haystacks, stored forage or domestic gardens.

## Property Management Principles

1.0 The following Property Management Principles shall be followed with respect to recreational, scientific research and Property management activities on the Property:

1. The Grantor may maintain, replace and repair the fences, roads, buildings, and other improvements (Facilities) located on the Property as of the date of this easement. The Facilities are to be maintained, replaced or repaired, each at its original size and in its same location. If any or all of such Facilities are removed or destroyed, the Grantor may replace them with similar structures of the same size in the same location.
2. *The Grantor may, in a manner consistent with good forest practices and the terms and intent of this easement:*
  - i. *Cut trees and posts and poles for limited fence use on the Property;*
  - ii. *Cut and gather downed trees for fire wood for personal use on the Property;*
  - iii. *Cut or prune trees and brush that constitute a hazard to persons, property or roads.*
  - iv. *Cut trees in patches no larger than 0.25 ha*
  - v. *Cut trees in a manner to sustain the forest and to not exceed the average annual growth of the tree species being cut*

***THIS AREA NEEDS TO BE EXPANDED ON-PROBABLY NEED A MORE DETAILED WOODLOT MGMT PLAN***

3. The Grantor may also carry out activities that will restore and enhance the aquatic, terrestrial and wetland habitat for fish and wildlife use and production. Such activities may include stream bank stabilization, improvement to the quality and quantity of water available, and development of watering facilities and ponds. Such activities must be conducted in a manner consistent with provincial and federal laws and regulations and not in conflict with the terms or intent of this easement and be coordinated with and approved by Grantee, acting reasonably.
4. The Grantor and Grantee agree that any initiators of oil, gas or utility activity on the Property be requested to keep new road development to a minimum, harvest existing native grass and or parkland prior to reclamation, re-seed with a native grass mix recommended by Grantee and in general, utilize the most current available technology per the industry standards of that time to minimize disturbance of the natural values on this Property. (e.g., directional drilling or other such surface-friendly methodology.)
5. *The Grantor may organically farm no more than 10 acres of previously cleared land (see sketch plan-Schedule E). A buffer zone of at least 25 m wide from the creeks must be established and maintained.*

## SCHEDULE "C"

Attached to and forming part of the Conservation Easement Agreement between Doug Wahlsten, of the First Part, and The Nature Conservancy of Canada, of the Second Part, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

### Definitions

1.1 Within this Agreement the following words and phrases shall have the following meanings:

“**Agreement**” means this Conservation Easement Agreement and the Schedules attached hereto;

“**Conservation Values**” means the documentation of conservation values included in the Report and includes, but is not limited to, the valuable contribution of the Property to the natural habitat of the Province of Alberta and its ecological, scenic, aesthetic, and open space values, including flora, fauna, and soils, all of which are worthy of preservation for the purposes of protecting the environment;

“**Access Right**” means the grant by the Grantor in favor of the Grantee of the Access Right described in Article 3.

“**Intensive Livestock Operations**” means a permanently constructed confined area or facility within which the Property is not grazed or cropped annually, and which is used and maintained for the purposes of engaging in the business of the reception and feeding of livestock for hire. Intensive Livestock Operations, as herein defined, does not include the seasonal confining of livestock into an area for feeding or the leasing of pasture for the grazing of livestock owned by others.

“**Parties**” means the Grantor and the Grantee;

“**Property Management Principles**” means the guiding principles for the ranching activities or Property use provided for in this Agreement, and as described in Schedule “B” of this Agreement;

“**Report**” means the baseline documentation Report describing the Property and documenting the natural values and features and current uses of the Property;

“**Restrictions**” means the restrictions on the use of the Property by the Grantor as set out in Schedule “B” of this Agreement; and

“**Term**” means forever unless earlier terminated pursuant to the Act.