SAMPLE REAL PROPERTY DONATION AGREEMENT

**AGRARIAN TRUST TO \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

This Real Property Donation Agreement (the “Agreement”) is made on\_\_\_\_\_\_\_\_\_\_\_\_\_\_, between \_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ corporation and/or its assigns (“Donor”) and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_ ,\_\_\_\_\_\_\_\_\_ corporation and/or its assigns (“Donee”). Donor and Donee may each be referred to herein as a “Party” and collectively as the “Parties.” The Donor is the owner of the real property commonly known as the \_\_\_\_” Insert abbreviated Legal Description” (see full legal description in Exhibit ()\_\_\_\_\_\_\_\_, (the “Property”).

The Parties agree that upon the terms and conditions outlined in this Agreement, the Donor shall donate and convey all of its rights and interests in the Property except as otherwise agreed herein, and the Donee shall accept and be the successor to all such rights and interests in the Property. This Real Property Donation Agreement and any addenda, riders, counterparts, or amendments together constitute the complete Agreement.

1. EFFECTIVE DATE: The date that this Agreement has been signed by both Parties shall be the “Effective Date” of the Agreement, notwithstanding any prior understanding or agreement concerning the financial terms set forth herein.

2. CONSIDERATION: The Parties acknowledge and agree that there shall be no consideration or payment of money or goods of any kind made by Donee to Donor in exchange for the Donor’s conveyance of its rights and interest in and to the Property as agreed herein. This Agreement, and the performance of any covenant or condition contained herein, is not contingent upon Donee obtaining financing from any source. To the extent that the Parties have entered any other agreement concerning the donation of the Property before this Agreement, each Party acknowledges full performance by the other Party of all covenants and conditions contained in such prior agreement.

3. CLOSING DATE: Settlement shall take place on or before \_\_\_\_\_\_\_\_\_\_(the “Closing Date”). The Closing Date may be extended by Donee, in Donee’s sole discretion, for up to sixty (60) days. In no other circumstance may the Closing Date be extended unless agreed to in writing and signed by the Donor and Donee. Unless extended according to the terms herein, if the Closing does not occur (through no fault of the Donor) by the Closing Date, the Agreement is automatically terminated. All disbursements shall be by the title company’s escrow account. Possession of the Property shall be given at Closing unless otherwise agreed.

4. TITLE: At Closing, Donor shall convey to Donee good and marketable fee simple title to the Property by Warranty Deed. The Property shall be conveyed free of all liens, defects, and encumbrances, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not affect the use of the Property for residential and agricultural purposes or render the title unmarketable. If a defect is found by Donee that can be remedied by legal action within a reasonable time, Donor and Donee shall work together in good faith, at Donee’s expense, to promptly take such action as is necessary to cure the defect. If the Parties, acting in good faith, are unable to have such defect corrected within ninety (90) days after notice of such defect is given to Donor, then this Agreement may be terminated by Donee. Donee may extend the date for Closing to the extent necessary for Donor to comply with this paragraph.

5. CLOSING EXPENSES, PROPERTY TAXES, AND ATTORNEY FEES: The Parties agree that the Donor shall be responsible for payment of real estate taxes through the date of Closing. All taxes shall be prorated as of Closing. The Parties also agree that the \_\_\_\_\_\_\_\_ shall be responsible for closing expenses, including title insurance, recording expenses, attorneys fees, and escrow expenses, if any.

6. PROPERTY CONDITION: Donee acknowledges and agrees that Donor has not made and hereby specifically disclaims any warranty, guaranty, or representation, oral or written, past, present, or future, of, as to, or concerning (i) the nature, square footage, condition, value, or quality of the geology, the presence of environmental hazards, or the suitability of the Property for any and all activities and uses which Donee may elect to conduct thereon, specifically including but not limited to, using the Property as a residence or for agricultural purposes; (ii) the manner, construction, condition, quality, the state of repair or lack of repair of any of the Property; (iii) except for any warranties contained in the deed, the nature and extent of any right of way, lease, possession, lien, encumbrance, license, reservation, condition, or otherwise in favor of any party other than the Donor; (iv) the compliance of the Property, its operation, or use with any laws, rules, ordinances, or regulations of any government or other body; and, (v) the income to be derived from the Property.

7. DUE DILIGENCE: For a period of (\_\_\_\_) days following the date of this Agreement (the “Due Diligence Period”), Donee and its employees, agents, representatives, and contractors shall have access to the Property for purposes of performing any appraisals, studies, tests, evaluations, survey, and inspections of the Property to determine if the Property is suitable for Donee’s intended use (“Due Diligence”). Donor’s consent shall not be unreasonably withheld, delayed, or conditioned. Donee shall repair, at Donee's sole cost and expense, any damage to the Property as a result of its Due Diligence and fully restore the Property as closely as possible to its condition before such Due Diligence was performed. Donee shall maintain a General Liability Policy at all times when it or any of its agents and contractors enter the Property until Closing. Likewise, Donee shall ensure that any contractor entering the Property on behalf of Donee shall also maintain a general liability policy. If, during the Due Diligence Period, Donee determines, in Donee’s sole and absolute discretion, that the Property is not suitable for Donee’s intended use, Donee may terminate this Agreement before the expiration of the Due Diligence Period. Donee shall have the right to extend the Due Diligence Period for an additional forty (40) calendar days (the “Extended Due Diligence Period”) by giving Donor written notice of such intention no later than 5:00 p.m. on the last day of the Due Diligence Period.

8. STATUTORY NOTICES: Any attached statutory notices are incorporated herein by reference.

9. REPRESENTATIONS AND WARRANTIES: In addition to Donee’s representations and warranties made elsewhere herein, Donee represents and warrants to Donor the following: (a) Donee is accepting the Property solely in reliance on its own information and/or findings and not on any information, representation or warranty provided or to be provided by Donor, its representatives, brokers, employees, agents, or assigns, including, but not limited to, any information provided on any brochures or web sites of Donor or Donor’s agents or brokers, or any information on the Multiple Listing Service; (b) Neither Donor, nor its employees, representatives, brokers, agents or assigns, has made any representations or warranties, implied or express, relating to the condition of the Property or the contents thereof; (c) Donee has not relied on any representation or warranty from Donor, or Donor’s agents or brokers regarding the nature, quality, or workmanship of any repairs made by Donor; and (d) Donee will not occupy, or cause or permit others to occupy, the Property prior to Closing.

10. CONVEYANCE OF PROPERTY; RIGHT OF REVERSION: Per Section 4 above, at Closing, Donor shall convey to Donee title to Donor’s interests in and to the Property by Warranty Deed, consistent with the terms of this Agreement, subject to restrictions, reservations, and other items of record. Donee acknowledges and understands that the Warranty Deed delivered by Donor to Donee at Closing shall contain a reversionary right, whereby ownership of the Property shall revert to Donor, their heirs, or assigns if the conditions of transfer are not met within one (1) year of the Closing Date or upon the bankruptcy, dissolution, or obsolescence of Donee. Failure to comply with the guidelines outlined in Exhibit B does not trigger this right of reversion.

11. CONDITIONS TO DONOR’S PERFORMANCE: The Parties shall have the right, by mutual written agreement, to extend the Closing Date or to terminate the Agreement if: (a) full payment of any property, fire or hazard insurance claim is not confirmed before the Closing Date; (b) any third party, whether tenant, or otherwise, exercises rights under a right of first refusal to purchase the Property. Further, Donor may terminate the Agreement, in Donor’s sole discretion, if Donor determines that the donation and transfer of the Property to Donee, or any related transactions, are in any way associated with illegal activity of any kind.

12. DONOR’S REMEDIES FOR DONEE’S DEFAULT: In the event of Donee’s material breach or material misrepresentation of any fact under the terms of the Agreement, Donor is automatically released from the obligation to donate and convey the Property to Donee, and Donor and any indemnified parties shall not be liable to Donee for any claims arising out of or relating in any way to Donor’s failure to donate and convey the Property to Donee.

13. RISK OF LOSS: All risk of loss or damage to the Property by fire, windstorm, casualty, or other cause, or taking by eminent domain, is assumed by Donor until Closing. In the event of substantial loss or damage to the Property before Closing, Donee shall have the option of either (i) terminating this Agreement, or (ii) affirming this Agreement, in which event Donor shall assign to Donee all of Donor’s rights under any applicable policy or policies of insurance and any condemnation awards and pay over to Donee any sums received as a result of such loss or damage.

14. ECOLOGICAL AND OTHER AGRARIAN TRUST MISSION STANDARDS: Donee agrees that the Agrarian Trust Mission Standards will be incorporated into all management, lease, and other relevant agreements pertaining to the use of the Property in perpetuity. The Agrarian Trust Mission Standards are attached hereto as Exhibit B. These standards are compatible with the mission of Donee as stated at the time of Donation (Insert Mission Standards).

15. CONSERVATION EASEMENT: (As Relevant)

16. DONEE INFORMATION RETURN. (As Relevant)

17. OTHER AGREEMENTS: No other agreements or representations, unless specifically outlined in the Agreement, shall be binding upon any of the Parties. This Agreement sets forth the complete understanding of the Parties hereto. No amendment, modification, or supplement to this Agreement shall be binding unless in writing and duly executed by each of the Parties hereto. Nothing herein shall be construed as constituting a partnership or joint venture between Donor and Donee.

18. SURVIVAL: Donor’s delivery of the deed to the Property to DONEE shall be deemed to be full performance and discharge of all of the Donor’s obligations under the Agreement. Notwithstanding anything to the contrary in the Agreement, any provisions that contemplate performance or observance subsequent to any termination or expiration of the Agreement shall survive the Closing, funding, and delivery of the deed and/or termination of the Agreement by any Party and such provisions shall continue in full force and effect.

19. SEVERABILITY: If any provision of the Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions shall not be affected or impaired thereby, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

20. TERMINATION OF AGREEMENT: If either Party terminates the Agreement when permitted to do so, the Parties shall have no further obligation to each other, except as to any provision that survives the termination of the Agreement.

21. ASSIGNMENT OF AGREEMENT: Neither Donor nor Donee shall assign the Agreement without prior written consent from the other Party, which consent may be withheld or conditioned in the party’s sole discretion.

22. WAIVER: The waiver by any Party of a breach of the Agreement shall not operate or be construed as a waiver of any other or subsequent breach. No course of dealing between the Parties shall operate as a waiver of any provision of the Agreement.

23. RIGHTS OF OTHERS: The Agreement does not create any rights, claims, or benefits inuring to any person or entity, other than a Party’s successors and/or assigns, that is not a Party to the Agreement, nor does it create or establish any third-party beneficiary to the Agreement.

24. COUNTERPARTS AND FACSIMILE: The Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument. A signed facsimile or photocopy of the Agreement shall be treated as an original and shall be deemed to be as binding, valid, genuine, and authentic as an originally signed agreement for all purposes, including all matters of evidence and the “best evidence” rule.

25. HEADINGS: The titles to the sections and headings of various paragraphs of the Agreement are placed for convenience of reference only, and in case of conflict, the text of the Agreement, rather than such titles or headings, shall control.

26. GENDER: Unless the context otherwise requires, singular nouns and pronouns, when used herein, shall be deemed to include the plural of such nouns or pronouns. All pronouns are intended to be inclusive of all genders.

27. FORCE MAJEURE: Except according to the Risk of Loss provisions above, no Party shall be responsible for delays or failure of performance resulting from acts of God, riots, acts of war, epidemics, power failures, earthquakes or other disasters, providing such delay or failure of performance could not have been prevented by reasonable precautions and cannot reasonably be circumvented by such Party through use of alternate sources, workaround plans, or other means.

28. NOTICES: Any notices required to be given under the Agreement shall be deemed to have been delivered when received in the case of an email with a return receipt requested, hand or overnight delivery, or ten (10) calendar days after mailing by first class mail, postage paid.

29. APPLICABLE LAW: This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of \_\_\_\_\_\_\_\_.

30. DISPUTE RESOLUTION: At the request of either Party, any dispute arising under this Agreement shall be submitted to mediation before resorting to arbitration or court action. Mediation fees shall be divided equally, and each Party shall bear its own attorney’s fees and costs. Neither Party may require binding arbitration before the commencement of court action, although the parties may mutually agree to such arbitration.

31. ATTORNEYS’ FEES, COURT COSTS, AND LEGAL EXPENSES: In any action, proceeding, or arbitration arising out of, brought under, or relating to the terms or enforceability of the Agreement each Party shall bear its own attorneys’ fees, costs, and expenses incurred in such action, proceeding, or arbitration.

IN WITNESS WHEREOF, Donor and Donee have entered into the Agreement effective as of the date it is executed by all Parties as set forth below. This agreement shall become a binding contract on the Effective Date. Unless specifically provided otherwise.

SIGNATURES ON THE FOLLOWING PAGE

|  |  |
| --- | --- |
| Entity Donor:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of organization) By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Print Name)Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Entity Donee:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Name of organization) By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Print Name)Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County,\_\_\_\_\_\_ State

I certify that the following person(s) personally appeared before me this day, each

acknowledging to me that he or she signed the foregoing document:

.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name(s) of principal(s)

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Official Seal)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Official Signature of Notary

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public

Notary’s printed or typed name

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

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County,\_\_\_\_\_\_ State

I certify that the following person(s) personally appeared before me this day, each

acknowledging to me that he or she signed the foregoing document:

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Name(s) of principal(s)

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Official Seal)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Official Signature of Notary

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public

Notary’s printed or typed name

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

EXHIBIT A: LEGAL DESCRIPTION

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EXHIBIT B: Ecological Stewardship and Farm and Ranch Standards

Agrarian Trust works with farms that prioritize the production of healthy food, balanced with ecological stewardship of soils, water, and habitats, and engagement in a local agrarian economy and the community. Local Agrarian Commons provide farms with secure and equitable tenure, along with living soil, clean water, and viable agricultural opportunities. Land may also be stewarded as a refuge for humans and all sentient beings. A refuge may include a healing space for mind-body-spirit, protecting diverse ecosystems, and/or enhancing ecological biodiversity. Farms that are part of the Commons must create, support, and enhance ecological and biological diversity. Farmers should protect natural communities and set aside at least 10% of each predominant land/habitat type (e.g. field, forest) on the farm as a natural reserve. Farmers can manage land for a diversity of habitat types and transition zones, planting botanical species for insects, birds, and other life.

Tillage can be done as needed, with a priority on reducing tillage where possible. The tilled ground should not cause water and soil degradation, and when resting, should be cover-cropped.

Water conservation can be supported through soil organic matter, on-contour agriculture, mulching, efficient irrigation, buffers along waterways, tree cover, and more.

Compost should be integrated into perennial and annual cropping and may include: livestock, green manure, legumes and/or cover cropping, wood chips, and vegetable products.

Land is used for agriculture to foster the symbiotic relationship between the soil and human and animal health. No confinement agriculture is allowed and no synthetic and/or chemical fertilizers, pesticides, fungicides, or herbicides may be used as part of farming practices, land management, or ecological stewardship.

Rotation should be integrated into any animal grazing, crop production, composting, and resting the land.

Soil health is focused on nutrient, micro-nutrient, trace element, and organic matter levels, aeration, microbial and earthworm life, and how health flows through the system.

EXHIBIT C: CONSERVATION EASEMENT SUMMARY (if Applicable)

Easement Name:

Date of Easement Closing: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town or District and County:

State:

Date Recorded: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deed Book \_\_\_\_\_\_\_, Page \_\_\_\_\_\_\_

Present Owner:

Acreage:

Conservation Values:

Man-made Structures / Improvements:

Land Uses Affecting Easement:

Development Rights:

Date Property Visited for Baseline Documentation:

Required Frequency of Monitoring for this Easement: