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Red tail Parcel 4
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conservation
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Lori D. Jarvis Register Of Deeds
Berrien County, Michigan

Rec \$85.00
Remon \$4.00
Tax Crt \$0.00



Recorded

December 05, 2011 10:21:25 AM

Liber 2976 Page 3210-3235
Receipt # 65046 EASE #2011030476



Liber 2976 Page 3210

STATE OF
MICHIGAN
Berrien County
December 05, 2011
Receipt # 65046



REAL ESTATE
TRANSFER TAX

\$14.85 - CO
\$101.25 - ST
Stamp # 20032

RED TAIL PARCEL 4 CONSERVATION EASEMENT

DATE: November 30, 2011

DONOR/OWNER: Ronora Lodge & Retreat Center LLC, Durward J. Gehring a/k/a James Gehring a/k/a Jim Gehring, Manager, whose address is P.O. Box 111, Watervliet, MI 49098 and its heirs, executors, administrators, designated successors and designated assigns.

DONEE/CONSERVANCY: Southwest Michigan Land Conservancy, Inc. a Michigan nonprofit corporation, "Conservancy", whose address is 6851 South Sprinkle Road, Portage, Michigan 49002, its successors and assigns.

For purposes of this Conservation Easement, the Donor, who is the current Owner, and all subsequent Owners of the subject Property, will be referred to as the "Owner" throughout this Conservation Easement. The Donee will be referred to as the "Conservancy" throughout this Conservation Easement.

PROPERTY: A parcel of land situated in the County of Berrien, Township of Watervliet, State of Michigan, described as follows:

That part of the Southeast Quarter of Section 12, Town 3 South, Range 17 West, described as follows: Commencing at the East Quarter corner of said Section 12; thence South, along the East line of said Section, 675.00 feet; thence North 89 degrees 01 minute 34 seconds West 306.59 feet; thence South 649.00 feet to the center of a row of Maple trees; thence North 88 degrees 18 minutes 00 seconds West, along the centerline of said Maple trees, 1425.70 feet; thence continuing along said centerline of Maple trees, North 87 degrees 31 minutes 00 seconds West 275.7 feet; thence North 88 degrees 15 minutes 06 seconds West 633.85

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feet to a point on the North and South Quarter line of said Section, 25.20 feet North 00 degrees 07 minutes 29 seconds West of the Southwest corner of the North Half of the Southeast Quarter of said Section; thence North 00 degrees 07 minutes 29 seconds West, along said North and South Quarter line, 1288.94 feet to the center of said Section; thence South 89 degrees 03 minutes 12 seconds East, along the East and West Quarter line of said Section, 2643.78 feet to the place of beginning.

Altogether encompassing approximately 76 acres.

CONVEYANCE: The Owner conveys and warrants to the Conservancy a perpetual Conservation Easement over the Property. The scope of this Conservation Easement is set forth in this agreement. This easement was purchased, in part, with funds through a Non-Point Source Pollution Grant with the Michigan Department of Environmental Quality, and as consideration for the grants and conveyances made herein, payment has been made to Owner in the amount of Thirteen Thousand Three Hundred Sixty Five Dollars (\$13,365), increased or decreased to reflect closing adjustments and pro-rations, the receipt and adequacy of which is hereby acknowledged. This payment is equivalent to roughly 25% of the appraised value of development rights. This conveyance is thus, in part, a gift from the Donor to the Conservancy.

THE OWNER AND THE CONSERVANCY AGREE TO THE FOLLOWING:

1. **PURPOSES OF THIS CONSERVATION EASEMENT AND COMMITMENTS OF THE OWNER AND THE CONSERVANCY.**
 - A. This Conservation Easement:
 - 1) Protects a natural habitat for fish, amphibians, and reptiles with areas of fen, emergent wetlands, scrub-shrub wetland, forested wetland and forested uplands and open spaces which support a diversity of plants and animals including the Eastern Massasauga Rattlesnake, a Federal candidate species for endangered listing status and also a State of Michigan species of Special Concern.
 - 2) Protects a significant intact and pristine upland/wetland complex with extensive watershed values to the larger Paw Paw River Watershed (PPRW).
 - 3) Protects land adjacent to 134 acres of conservation lands that will be protected concurrently with this Conservation Easement.
 - 4) Preserves open space and will yield a significant public benefit
 - a) Pursuant to a clearly delineated Federal, State, or local governmental conservation policy,
 - b) For the scenic enjoyment of the general public with views from the

public roadway known as County Line Road.

These purposes will be referred to as the "Purposes" in this Conservation Easement.

- A. The Owner of the Property is committed to preserving the Conservation Values of the Property. The Owner agrees to confine use of the Property to activities consistent with the Purposes and the preservation of the Conservation Values. Any uses of the Property which may impair or interfere with the Conservation Values are expressly prohibited.
 - B. The Conservancy (i) is a qualified holder of this Conservation Easement committed to preserving the Conservation Values of the Property and upholding the terms of this Conservation Easement (ii) is a tax-exempt, nonprofit Michigan corporation qualified under Internal Revenue Code Sections 501(c)(3) and 170(h)(3), (iii) has the resources to enforce this Easement, (iv) protects natural habitats of fish, wildlife, plants, and the ecosystems that support them and (v) preserves open spaces, including farms and forests, where such preservation is for the scenic enjoyment of the general public or pursuant to clearly delineated governmental conservation policies and where it will yield a significant public benefit.
2. **CONSERVATION VALUES.** The Property possesses natural, scenic, historic, open space, scientific, biological, and ecological values of prominent importance to the Owner, the Conservancy, and the public. These values are referred to as the "Conservation Values" in this Easement. Certain Conservation Values may have relevance to more than one Purpose, even though they are listed only once. The Conservation Values include the following:

- A. **The Property contains significant natural habitat in which fish, wildlife, plants or the ecosystems which support them, thrive in a natural state, as demonstrated by:**

WILDLIFE HABITAT

- 1) The Property provides vital corridor wetlands and upland wildlife habitats for the state of Michigan species of Special Concern Eastern Massasauga Rattlesnake, also a candidate species for protected status on the Federal Endangered Species List. The Eastern Massasauga Rattlesnake inhabits the Property in large numbers. The Property also protects habitat for the Blanding's Turtle and Red-Shouldered Hawk, both state species of Special Concern.
- 2) The Property contains natural areas that represent high quality examples of terrestrial or aquatic communities including fen, emergent wetlands, forested swamp, and scrub-shrub swamp.
- 3) High quality habitat on the Property serves as a connection for wildlife

movement and creates a natural “greenway” that connects to adjacent upland/wetland habitat totaling 134 acres that is being protected concurrently with this Conservation Easement, thus expanding the greenway to over one combined mile of natural area just east of Paw Paw Lake.

- 4) The Property is noteworthy for the excellent quality of the fen which includes unique and rare plant species such as the carnivorous pitcher plant and showy lady slippers, and a beautiful open meadow with plant species indicative of a Southern wet meadow. The Property’s habitats are home to biodiverse vegetation, birds, mammals, aquatic invertebrates, reptiles, and amphibians.
- 5) Valued native forest land exists on the Property, which includes several 200 year old maples, diverse native species, trees of many age classes and structural diversity, including a multi-story canopy, standing dead trees and downed logs.

WATERSHED PROTECTION

- 1) The Property provides important natural land within the watershed of Paw Paw Lake and larger PPRW. Protection of the Property in its largely unfragmented natural and open space condition helps to ensure the quality and quantity of water resources for the greater Watervliet area.
- 2) Wetlands, as described in Wetland Protection, Part 303 of the Michigan Natural Resources and Environmental Code MCL 324.30301 et seq., identified as important natural resources for the people of the State of Michigan, are present on the Property. Wetland communities are wide-ranging, and include, forested swamp, fen and other scrub-shrub wetland, and emergent wetland. Specifically, 32% of the property, approximately 24.5 acres, is designated wetland as classified by the U.S. Fish and Wildlife National Wetlands Inventory. The majority, 16.7 acres is designated emergent wetland. 4.1 acres is designated forested wetland, and the remaining 3.7 acres is scrub-shrub wetland that can be further classified as a fen. A combination of healthy wetland areas with diverse adjacent upland areas enables a broad diversity of plant communities to thrive on the site.
- 3) The Property was identified as a priority parcel for conservation in the 2006 Michigan Department of Environmental Quality (MDEQ) 319 funded management plan prepared for the watershed. According to this 2006 PPRW Management Plan, the wetland resource base in the PPRW has undergone significant disruption in the 200 years since Michigan was settled. According to an MDEQ wetland functionality assessment for the PPRW, **Designated Wetlands** on the Property score highly for the provision of the following critical functions: flood water storage, streamflow maintenance, nutrient transformation, shoreline stabilization, sediment retention, waterfowl/waterbird habitat, and amphibian habitat. These Designated Wetlands additionally score in the medium range for

provision of shorebird habitat and conservation of imperiled wetlands. Protection of this Property ensures the protection of land that contributes greatly to sustaining the water quality and quantity of the larger PPRW.

PROXIMITY TO PROTECTED LANDS

- 1) The Property lies directly adjacent to the following properties, being concurrently conserved, which similarly preserve the existing natural habitat:
 - a) Red Tail Parcels 1 & 2 Conservation Easements, Southwest Michigan Land Conservancy, Watervliet Township, Section 12 and 13.
 - b) Red Tail Parcel 5 Conservation Easement, Southwest Michigan Land Conservancy, Watervliet Township, Section 13.
- 2) The Property lies is less than one (1) mile from the following conserved properties which similarly preserve the existing natural habitat:
 - a) Site Number 04-11-0130 Conservation Easement, Michigan Department of Environmental Quality, Watervliet Township, Section 11.
 - b) Woodland Nature Conservancy, Woodland Nature Conservancy, Watervliet Township, Section 14.
- 3) Preservation of the Property enables the Owner to integrate the conservation values with other neighboring lands.

B. The Property provides open space for the scenic enjoyment of the general public and will yield a significant public benefit through:

SCENIC VIEWSHED

- 1) A scenic landscape and natural character which would be impaired by modification of the Property.
- 2) A scenic panorama visible to the public from publicly accessible roadway known as County Line Road which would be adversely impacted by modifications of the natural habitat.
- 3) Relief from urban closeness as the village of Watervliet expands.
- 4) Biological integrity of other land in the vicinity has been subdivided and modified by intense urbanization, and the trend is expected to continue.
- 5) There is a reasonable possibility that the Conservancy may acquire other valuable property rights on additional nearby or adjacent properties to expand the Conservation Values preserved by this Conservation Easement.
- 6) The Property is located within Watervliet Township, an area that has grown rapidly with residential development over the past century, especially around Paw Paw Lake, a trend that is expected to continue.
- 7) The Property is desirable for substantial residential development because of its size, location in the Paw Paw Lake area, and incredible scenic vistas and high quality forest, open space and natural areas; and in the absence of this Conservation Easement the Property could be developed in a manner

that would destroy the Conservation Values.

- C. **The Property is preserved pursuant to a clearly delineated federal, state, or local conservation policy and yields a significant public benefit. The following legislation, regulations, and policy statements establish relevant public policy:**

PUBLIC LAW

The State of Michigan has recognized the importance of protecting our natural resources as delineated in the 1963 Michigan Constitution, Article IV, Section 52, "The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment, and destruction."

- 1) Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.2140 *et seq.*;
- 2) Biological Diversity Conservation, Part 355 of the Michigan Natural Resources and Environmental Protection Act – MCL §§ 324.35501 *et seq.*; (Legislative Findings § 324.35502);
- 3) Wetland Protection, Part 303 of the Michigan Natural Resources and Environmental Act - MCL §§ 324.30301 *et seq.*; (Legislative Findings MCL § 324.30302);
- 4) Water Pollution Control Act of 1972, 33 USC §§ 1251 - 1387 (§1251 Goals & Policy; § 1344 Wetlands permitting, aka "Section 404" Clean Water Act.);
- 5) Inland Lakes and Streams, Part 301 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.30101 *et seq.*;
- 6) Great Lakes Submerged Lands, Part 325 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.32501 *et seq.*;
- 7) Farmland and Open Space Preservation, Part 361 of the Michigan Natural Resources and Environmental Protection Act - MCL §§ 324.36101 *et seq.*;
- 8) Soil Conservation, Erosion, and Sedimentation Control, Parts 91 & 93 of the Michigan Natural Resources and Environmental Protection Act – MCL §§ 324.9101 *et seq.*; 324.9301 *et seq.*; (Legislative Policy § 324.9302); and
- 9) The 2006 Michigan Department of Environmental Quality-funded Paw Paw River Management Plan, identifies this Property as a priority parcel for conservation based upon its significance toward the overall protection of water quality and quantity in the Paw Paw River Watershed.

3. **BASELINE DOCUMENTATION.** Specific Conservation Values of the Property have been documented in a natural resource inventory signed by the Owner and the Conservancy. This "Baseline Documentation Report", which is incorporated herein by reference, consists of maps, a depiction of existing human-made modifications,

prominent vegetation, identification of flora and fauna, land use history, distinct natural features, and photographs. The parties acknowledge that the Baseline Documentation Report is an accurate representation of the Property at the time of this donation. The Conservancy may use the Baseline Documentation Report in enforcing the provisions of this Conservation Easement but is not limited to the use of the Baseline Documentation Report to show a change in conditions. Any characterization of the terms of this Conservation Easement contained in the Baseline Documentation Report shall not be interpreted so as to alter, amend, or otherwise modify this Conservation Easement. In any conflict or inconsistency between the terms of this Conservation Easement and the Baseline Documentation Report, the terms of this Conservation Easement shall prevail.

4. **PROHIBITED ACTIONS.** Any activity on, or use of, the Property that is inconsistent with the Purposes or that is detrimental to the Conservation Values is expressly prohibited. By way of example, but not by way of limitation, the following activities and uses are expressly prohibited:
- A. **Subdivision.** The legal or defacto subdivision of the Property, including any subdivision, short subdivision, platting, binding site plan, testamentary division, creation of a site condominium or other submission of the Property to a condominium form of ownership, or other process by which the Property is divided into lots or in which title to different portions of Property are held by different owners is prohibited.
 - B. **Commercial Activities.** Any commercial activity on the Property is prohibited, except for de minimis commercial recreational activity as such term is referenced in Internal Revenue Code Section 2031(c)(8)(B).
 - C. **Industrial Activities.** Any industrial activity on the Property is prohibited.
 - D. **Construction.** The placement or construction of any human-made modifications, including structures, buildings, fences, roads, and parking lots is prohibited except as provided for under **Paragraph 5**.
 - E. **Cutting Vegetation.** Any alteration of trees or vegetation, including pruning or trimming, is prohibited, except for the cutting or removal of trees or vegetation that are (i) a threat to human life or property, or (ii) generally accepted as diseased or invasive species by conservation professionals and as provided for under **Paragraph 5**.
 - F. **Alteration of Land.** The alteration of the surface of the land, including the excavation or removal of soil, sand, gravel, rock, peat, or sod is prohibited.
 - G. **Mining and Oil and Gas Extraction.** The Owner retains the right to extract oil, gas, hydrocarbons, or petroleum from the Property for commercial purposes as described in **Paragraph 5** provided that no exploration for, or extraction of, minerals shall be conducted from the surface of the Property. The Owner may enter into a non-developmental lease if said lease is part of a pool for oil, gas,

hydrocarbons or petroleum which solely permits the extraction of oil, gas, hydrocarbons, or petroleum. Extraction shall not involve any surface alteration of the Property or construction or placement of any structures, including pipelines, on, over, across, or under the Property.

- H. **Dumping.** Processing, storage, dumping, or disposal of liquid, solid, natural or man-made waste, refuse, or debris on the Property is prohibited.
 - I. **Water Courses, Ground Water.** Natural water courses, lakes, wetlands, or other bodies of water may not be altered and water from ground or surface sources may not be diverted except as provided for under **Paragraph 5**.
 - J. **Off-Road Recreational Vehicles.** Motorized off-road vehicles such as, but not limited to, snowmobiles, dune buggies, all-terrain vehicles, and motorcycles may not be operated off of designated roads on the Property except as provided for under **Paragraph 5**.
 - K. **Livestock.** Raising or housing of livestock, poultry or horses, commercial kenneling of animals and commercial aquaculture is prohibited on the Property except as provided for under **Paragraph 5**.
 - L. **Signs and Billboards.** Billboards are prohibited. Permanent signs are prohibited, except the following signs may be displayed for the following purposes and any other purposes that are consistent with the Permitted Uses under **Paragraph 5**:
 - To disclose the name and address of the Property or the owner's name.
 - To disclose that the area is protected by a conservation easement.
 - To state that trespassers or any unauthorized entry or use is prohibited.
 - To advertise the Property for sale or lease.
 - To identify and interpret trails and natural features.
 - To warn of the presence of dogs or other animals.
 - To warn or deal with matters of property boundaries, health, safety, and welfare.
 - To include signage required by law or other rules or regulations.
5. **PERMITTED USES.** The Owner retains all ownership rights that are not expressly restricted by this Conservation Easement. In particular, the following rights are reserved:
- A. **Right to Convey.** The Owner retains the right to sell, mortgage, bequeath, or donate the Property. Any conveyance will remain subject to the terms of the Conservation Easement and the subsequent Owner will be bound by all obligations in this agreement.
 - B. **Right to Add, Maintain, Renovate, and Replace Designated Structures and Uses in the Building Envelope.** The Owner retains the right to add, maintain, renovate, and replace the structures, in the **Building Envelope (BE)** described below and as noted on the **Baseline Documentation Map**.

- 1) The Owner retains the right to add, maintain, renovate, and replace one single-family residential structure and one or more ancillary outbuildings and storage structures, including but not limited to camp structures, garages, barns, storage buildings, or greenhouses.

Any expansion or construction of new structures, or renovation or expansion or replacement of existing structures shall not result in an aggregate impervious land surface area of more than 5,000 square feet land surface area. At the time of the conveyance of the Conservation Easement, the land surface area of all the existing structures on the Property in the **BE** is approximately zero (0) square feet. The impervious land surface area of all future expansions and additional construction shall not exceed 5,000 square feet land surface area. Thus, the aggregate impervious land surface area of all structures, both existing and future, shall never exceed 5,000 square feet land surface area within the **BE**.

The **Building Envelope** is more specifically described as the following:

Commencing at the East Quarter Post of Section 12, Township 3 South, Range 17 West, thence South 0 degrees 0 minutes 0 seconds East 360 feet to the place of beginning; thence South 0 degrees 0 minutes 0 seconds East 317.5 feet, thence South 90 degrees 0 minutes 0 seconds West 305.7 feet, thence North 0 degrees 0 minutes 0 seconds West 317.5 feet, thence North 90 degrees 0 minutes 0 seconds East 305.7 feet to the place of beginning.

The Building Envelope encompasses approximately 2.2 acres.

The Owner retains the right to access the **BE** via one (1) driveway. The driveway will provide access to the **BE** via the public roadway known as County Line Road and may be improved and widened. The driveway and corresponding right-of-way may not exceed 25 feet in width. The Driveway and parking area are not included in the impervious square feet of land surface area limit mentioned above and must be less than 25 feet in width with only a minimal amount of paved area for parking.

To define the corners of the **BE** the Owner permits the Conservancy to install small permanent concrete or metal rod markers. The Owner shall not cover remove or otherwise damage, disturb, or destroy these markers.

Also, the Owner retains the right to provide for utilities to serve the outbuildings within the **BE**. These utilities include, but are not limited to, electricity, water, onsite wells, and septic and sewer services. These utilities can be located either above ground, or below ground and whenever possible will be located within the right-of-way of the driveway, provided the activity does not substantially alter the landscape or adversely impact the Conservation Values of the Property.

Prior to adding any new structure and prior to renovating or replacing any

structure or making a significant change to the driveway, the Owner will provide a written plan to the Conservancy for the Conservancy's review and written approval under the provisions set forth in the Conservation Easement, specifically in **Paragraph 8**. The purpose of the Conservancy's review of the written plan is to make sure the proposed activity is consistent with the terms of this Conservation Easement. So long as the written plan is consistent with the terms of this Conservation Easement, the Conservancy shall approve the written plan.

- C. **Right to Add and Maintain Trails and Elevated Walking Platforms.** The Owner retains the right to maintain existing foot trails and existing unpaved two-tracks throughout the Property provided that the maintenance activity does not substantially alter the landscape or adversely impact the Conservation Values of the Property.

The Owner also retains the right to add additional trails and elevated walking platforms. Prior to adding any new trail or walking platform, the Owner will notify the Conservancy in writing for the Conservancy's review and written approval under the provisions of **Paragraph 8**. The addition of any new trails or elevated walking platforms may not substantially alter the landscape of the Property nor shall it adversely impact the Conservation Values of the Property. Any additional trails or elevated walking platforms shall be designed in a manner that protects the Conservation Values to the greatest extent reasonably possible.

- D. **Right to Construct and Maintain Perimeter Barriers.** The Owner retains the right to construct and maintain fencing or other deterrent type of structures to prevent access by off-road recreation vehicles or other unauthorized access provided the construction of such fencing or structures do not adversely impact the Conservation Values of the Property.

- E. **Right to Conduct Ecological Restoration.** The Owner retains the right to conduct ecological restoration on the Property if (a) it is planned and undertaken meeting the following goals and (b) is conducted (i) in accordance with applicable government regulations, (ii) in accordance with a **Management Plan** or an **Ecological Restoration Plan** prepared by a qualified natural resource professional approved in advance by the Conservancy. (see page 5 below)

Ecological restoration is the process of assisting the recovery and management of ecological integrity with sensitivity to regional and historical context of the landscape. Ecological Restoration includes, but is not limited to, planting native species, removing non-native or invasive species, and implementation of a natural disturbance regime (e.g., fire) appropriate for the Property.

- 1) *Goals.* The goals include one or more of the following:
 - a.to maintain, improve or enhance the overall ecological integrity of the Property (wildlife habitat and species diversity);
 - b.to maintain, improve or enhance the scenic character of the Property;
 - c.to restore the biodiversity, function, and ability of the property to reasonably accommodate normal disturbances;

- d.to conserve native plant and animal species;
- e.to protect water quality, wetland, and riparian zones; and
- f.to minimize soil disturbance and erosion.

The **Ecological Restoration Plan** shall be provided to the Conservancy for the Conservancy's review and written approval under the provisions of **Paragraph 8**. The Conservancy shall review and either approve or notify the Owner of any deficiencies in the Plan that relate to protecting the Conservation Values of the Property. The Conservancy's written approval may be withheld only upon a reasonable determination by the Conservancy that the proposed action(s) would be inconsistent with the purposes of this Conservation Easement or detrimental to the Conservation Values of the Property.

F. **Right to Remove Trees in Managed Woodland Areas.**

- 1) **Retained Rights.** The Owner retains the right to conduct the following forestry activities on the Property in areas designated as **Managed Woodland (MWA)** on the **Baseline Documentation Map** so long as there is no impact to **Designated Wetlands** as identified on the **Baseline Documentation Map**.
 - a. Cutting or removing trees or other vegetation is permitted to remove dangerous trees, reduce a natural threat of infestation posed by diseased vegetation, or control invasive and/or non-native plant species.
 - b. Removal of dead and downed trees for firewood for the Owners personal use is permitted provided that such harvest does not exceed ten (10) full cords of wood in any one (1) calendar year.
 - c. Forest management for the growth and harvest of trees is permitted if (i) it is planned and undertaken meeting the conditions specified in **Paragraph 5F2** below, (ii) it is conducted in accordance with a Forest Management Plan as described in **Paragraph 5F3** below, and (iii) it is conducted in a manner not detrimental to the purposes of this Conservation Easement or detrimental to the Conservation Values of the Property described in **Paragraph 2**.
- 2) **Conditions.** Any forest management activity on the Property must meet the following conditions:
 - a. Minimize soil disturbance and erosion;
 - b. Protect water quality, wetland, and riparian zones;
 - c. Maintain or improve the overall quality of the forest (habitat, species diversity, and forest productivity);
 - d. Conserve the scenic quality of the Property; and
 - e. Conserve native plant and animal species.

- 3) *Forest Management Plan.* The Forest Management Plan must be prepared by a Professional Forester or other qualified natural resources specialist, said Forester or Specialist must be approved in advance and in writing by the Conservancy. The Forest Management Plan need only be prepared prior to selling and harvesting of trees and must be prepared prior to selling or harvesting of trees. The Plan must be updated at least every ten (10) years and shall be provided to the Conservancy for review. The Conservancy shall have thirty (30) days from receipt of the Forest Management Plan to review and either approve or notify the Owner of any deficiencies in the Plan that relate to the requirements of this paragraph **5F3**, including, but not limited to, protecting the Conservation Values of the Property described in **Paragraph 2** of this Conservation Easement. Such approval shall not be unreasonably withheld.
- a. *Objectives of the Plan.* The Forest Management Plan must be designed to:
- i. Plan for and meet the conditions listed in paragraph **5F2** above.
 - ii. Preserve or enhance the Property's Conservation Values outlined in **Paragraph 2**.
 - iii. Comply with all applicable local, state, federal and other governmental laws and regulations.
 - iv. Comply with the standards set forth in the then current Best Management Practices, as outlined in "Water Quality Management Practices on Forest Land", (1994) Michigan Department of Natural Resources, and in accordance with the recommendations in "Riparian Forest Buffers", (Welsch, 1991) Forest Resources Management, USDA Forest Service, Radnor, PA, NAPR0791 or similar successor publications approved by the Conservancy.
 - v. Develop and maintain over the entire forest a well distributed stand of unevenaged and multiple species of trees conducive to supporting a natural forest ecosystem.
 - vi. Prevent highgrading as a harvesting method.
- b. *Notice of Harvest.* The Owner shall provide the Conservancy with a written Notice of Harvest at least thirty (30) days prior to the first of the following events: bidding, selling, or harvesting of any trees. The proposed harvest is subject to the Conservancy's approval in order to implement the changes, if any, recommended by the Conservancy to the harvest plan or procedures. Notice shall include the location of the harvest, contemplated dates, a cutting plan, a plan for ingress and egress, and a summary of activities and practices intended to achieve compliance with the requirements of this Paragraph **5F3**. Upon completion of harvest and after all restoration has been completed, Notice of Completion shall be

provided to the Conservancy.

Timber harvesting shall be conducted under a written contract with competent operators. The contract shall specify relevant requirements for compliance with this Paragraph and this Conservation Easement. Such contract shall be provided to the Conservancy prior to harvest.

c. *Definitions.*

Clearcut - A forested area will be deemed "clearcut" unless there remains after commercial harvesting or permitted selection cutting, a sufficiently dense and well distributed stand of developing and mature indigenous trees so that the character of the landscape remains substantially forested.

Forest Management - Proper care and control of wooded land to maintain health, vigor, product flow, and other values (soil condition, water quality, wildlife preservation, and beauty) in order to accomplish specific landowner objectives.

High Grading - the harvesting of only large diameter, high quality trees of merchantable value while leaving trees that are not merchantable because of small size, poor quality, or undesirable species.

Individual Selection or Group Selection Harvesting A harvest in which individual trees or small groups of trees in areas no greater than $\frac{3}{4}$ acre or with area diameters no greater than two times the height of the dominant trees in the canopy, whichever is smaller, are harvested at periodic intervals (usually 8-15 years) based on their physical condition or degree of maturity for the purposes of encouraging regular growth and maintaining an intact forest canopy over the landscape. The use of individual selection cutting or group selection should be used for regeneration of existing shade tolerant and shade intolerant trees species respectively, and to enhance the uneven-aged management system.

- G. **Right to Maintain Open Space Activities.** The Owner retains the right to have horses or barnyard animals for personal, non-commercial use. Grazing is permitted in areas designated as **OS**, **BE** and **AG** on the **Baseline Documentation Map** outside of **Designated Wetlands**. The right to use the property for animals under this paragraph (including the number of animals on the Property) shall be done in a way that does not adversely impact the Conservation Values of the Property and also shall be consistent with the following:

- 1) For the purposes of shelter and general care, the **BE** should be used for the stabling of horses and barnyard animals. Pasturing of animals must occur

within the areas designated as **OS, BE, or AG** on the **Baseline Documentation Map**.

- 2) In order to protect the Conservation Values of the Property the Owner must erect and maintain fencing and enclosures adequate to prevent horses and barnyard animals from entering **Designated Wetlands** as identified on the **Baseline Documentation Map** unless for permitted equestrian riding purposes to cross from one open space to another.
- 3) In order to preserve the scenic beauty of the Property and protect the Conservation Values of the Property, "Open Space Activities" does not include the use of the Property as a commercial feedlot, or a confined or concentrated animal feeding operation ("CAFO").

H. **Right to Maintain Agricultural and Open Space Activities/Uses.** The Owner retains the right to maintain agricultural operations on the Property. Agricultural and Open Space use is permitted in areas designated as **AG** on the **Baseline Documentation Map** and is defined as the planting and harvesting of crops, nursery stock, and trees for silviculture. Agricultural management operations shall employ generally accepted agricultural management practices as defined and recommended in the Michigan Right-to-Farm Act, Public Act 93 of 1981, as amended, MCL 286.472, 286.473, and 286.474, or successor provisions then applicable, that address soil and water conservation, pest management, nutrient management and other management practices.

1. **"Agricultural Use"** means use of substantially undeveloped land for the production of horticultural, and agricultural crops useful to humans, including but not limited to fruits, nuts, vegetables, mushrooms, Christmas trees, timber trees, and grains and feed crops, the pasturing of livestock, horses and barnyard animals, and the following related uses and activities:
 - a. Excavation for the purposes consistent with agriculture use such as irrigation pipes and irrigation wells. Disrupted surfaces shall be resorted in a manner consistent with agricultural uses, including replacement of a minimum of four (4) inches of topsoil and seeding within a reasonable period of time after disruption.
2. **"Open Spaces Use"** as used herein means:
 - a. Agricultural Uses as defined above;
 - b. Non-agricultural uses that conserve natural, scenic or designated historic resources;
 - c. Windbreaks and other vegetation; and
 - d. Habitat for native wildlife species.

This includes the right to maintain the **OS** area identified on the **Baseline Documentation Map** by periodically mowing or burning to keep woody species from encroaching.

3. In order to preserve the scenic beauty of the Property and protect the Conservation Values of the Property, Agricultural and Open Space Uses does not include the use of the Property as a commercial feedlot, or a confined or concentrated animal feeding operation ("CAFO").
 4. To protect conservation values, the Owner shall maintain a protective vegetative buffer strip on the **AG** side of all fencing adjacent to **Designated Wetlands** as both are identified on the **Baseline Documentation Map**, to effectively filter nutrients.
- I. **Right to Hunt and Fish.** The Owner retains the right to allow hunting, fishing and trapping on the Property as regulated by the Michigan Department of Natural Resources or applicable successor agency and as a management tool in circumstances necessary to control wildlife and feral animals.
 - J. **Right to Construct and Maintain Hunting Blinds, Viewing Platforms and Tree Stands.** The Owner retains the right to construct and place blinds on the Property for the purpose of hunting and viewing wildlife. Blinds and viewing platforms shall not have a foundation constructed with concrete or other permanent materials. The Owner may affix permanent tree stands that are constructed from wood or fasten tree stands that are portable and non-permanent, made from any materials that common or standard for these devices.
 - K. **Right to Noncommercial Fruit, Berry and Mushroom Picking.** The Owner and clients of the camp and retreat center retain the right to noncommercial fruit, berry and mushroom picking provided such activities do not adversely impact the Conservation Values on the Property.
 - L. **Right to Equestrian Riding.** The Owner retains the right to equestrian riding in the **Open Space (OS)** and on established two tracks and foot trails in the **Managed Woodland Area** outside of **Designated Wetlands** as referred to on the **Baseline Documentation Map**, provided such activities do not adversely impact the Conservation Values of the Property.
 - M. **Right to Exploit Subsurface Mineral Resources.** The Owner retains the right to extract oil, gas, hydrocarbons, or petroleum for commercial purposes provided that no exploration for, or extraction of, minerals shall be conducted from the surface of the Property. The Owner may enter into a non-developmental lease if said lease is part of a pool for oil, gas, hydrocarbons or petroleum which solely permits the extraction of oil, gas, hydrocarbons, or petroleum. Any construction or placement of any structures, including pipelines, on, over or across the Property is prohibited. Under no circumstances are surface mining methods allowed.

Prior to engaging in a non-development lease, the Owner will provide a draft of

said lease to the Conservancy for the Conservancy's review and written approval under the provisions set forth in the Conservation Easement, specifically in **Paragraph 8**. The purpose of the Conservancy's review of the written plan is to make sure the proposed activity is consistent with the terms of this Conservation Easement. Approval from the Conservancy shall not be unreasonably withheld so long as the written plan is consistent with the terms of this Conservation Easement and does not adversely impact the Conservation Values.

Extraction of non-hydrocarbon or petroleum minerals, such as, sand, gravel, rock or peat, is prohibited.

- N. **Right to Establish, Maintain, Renovate, and Replace Wind Generation Infrastructure.** The Owner also retains the right to establish, maintain, renovate, and replace one (1) wind turbine for the purpose of energy generation. The wind turbine shall not exceed eighty (80) feet in height and shall be located within the **BE, AG or OS** area on the **Baseline Documentation Map**. Prior to adding or replacing any wind generation infrastructure, Owner will provide a written plan to the Conservancy for the Conservancy's review and written approval under the provisions set forth in the Conservation Easement, specifically in **Paragraph 8**. The purpose of the Conservancy's review of the written plan is to make sure the proposed activity is consistent with the terms of this Conservation Easement. So long as the written plan is consistent with the terms of this Conservation Easement, the Conservancy shall approve the written plan.

Additional wind turbines exceeding eighty (80) feet in height are permitted subject to prior approval of the Conservancy, as described in **Paragraph 8**. The Conservancy may approve or deny the request based upon the proposed impact to conservation values.

- O. **Right to Establish and Maintain Family Graveyard.** The Owner retains the right to establish a small family graveyard plot not to exceed 100 square feet within the **OS** area designated as **Geronimo Hill** on the **Baseline Documentation Map** so long as the use and location does not adversely impact conservation values.

Prior to establishing the graveyard, Owner will provide a written plan to the Conservancy for the Conservancy's review and written approval under the provisions set forth in the Conservation Easement, specifically in **Paragraph 8**. The purpose of the Conservancy's review of the written plan is to make sure the proposed activity is consistent with the terms of this Conservation Easement. So long as the written plan is consistent with the terms of this Conservation Easement, the Conservancy shall approve the written plan.

- P. **Recreational Activity.** The Owner may continue to allow clients of the camp and retreat center to use the property for recreational uses, including hiking, horseback riding as permitted in **Paragraph 5**, cross-country skiing, bicycling, playing field sports in the **AG** and **BE** areas as identified on the **Baseline**

Documentation Map, and camping in temporary structures placed in the **AG Area**, so long as the activities do not violate the restriction on commercial recreation activity in **Paragraph 4(B)** and do not impair the Conservation Values.

6. **RIGHTS OF THE CONSERVANCY.** The Owner conveys the following rights upon the Conservancy to perpetually maintain the Conservation Values of the Property:

- A. **Right to Enter.** The Conservancy has the right to enter the Property at reasonable times to monitor the Property and to enforce compliance with, or otherwise exercise its rights under, this Conservation Easement. Notwithstanding the foregoing, the Conservancy may not unreasonably interfere with the Owner's use and quiet enjoyment of the Property or permit others to enter the Property. The general public is not granted access to the Property under this Conservation Easement.
- B. **Right to Preserve.** The Conservancy has the right to prevent any activity on or use of the Property that is inconsistent with the Purposes or detrimental to the Conservation Values of the Property.
- C. **Right to Require Restoration.** The Conservancy has the right to require the Owner to restore the areas or features of the Property which are damaged by any activity inconsistent with this Conservation Easement.
- D. **Signs.** The Conservancy has the right to place signs on the Property which identify the land as protected by this Conservation Easement. The number and location of any signs are subject to the Owner's approval.

7. **CONSERVANCY'S REMEDIES.**

- A. **Delay in Enforcement.** A delay in enforcement shall not be construed as a waiver of, or otherwise a bar to, the Conservancy's right to enforce the terms of this Conservation Easement.
- B. **Third Party Violations.** Notwithstanding the Owner's obligations under this Conservation Easement and the Conservancy's right to require restoration of the Property, the Conservancy shall have the following rights for acts or occurrences at the Property beyond the direct or indirect control of the Owner:
 - 1) The Conservancy may not bring an action against the Owner for modifications to the Property or damage to the Property or its Conservation Values resulting from natural causes beyond the Owner's control, including natural disasters, unintentional fires, floods, storms, natural earth movement or other acts of God that impair the Conservation Values.
 - 2) The Owner shall be responsible for modifications or damage to the

Property that impair or damage the Conservation Values of the Property and result from the acts of third parties whose use of, or presence on, the Property is authorized by the Owner. Owner shall perform such restoration pursuant to and in accordance with a restoration plan prepared by a competent professional selected by the Owner and approved by the Conservancy. The contents of the restoration plan shall be subject to the prior written approval of the Conservancy.

- 3) In the event of an unauthorized third-party violation of the Conservation Values on the Property, the Conservancy shall not seek restoration or exercise remedies available to it if and so long as the Owner diligently pursues all available legal remedies against the violator. In the event actions taken by unauthorized third parties impair the Conservation Values protected by this Conservation Easement, the Conservancy reserves the right, either jointly or severally, to pursue all appropriate civil and criminal penalties to compel restoration and Owner assigns any claim or right to recover against such third parties to Conservancy.

- C. **Notice and Demand.** If the Conservancy determines that the Owner is in violation of this Conservation Easement, or that a violation is threatened, the Conservancy shall provide written notice to the Owner. The written notice will identify the violation and request corrective action to cure the violation and, where the Property has been injured, to restore the Property. If at any time the Conservancy determines, in its sole and absolute discretion, that the violation constitutes immediate and irreparable harm, no written notice is required and the Conservancy may then immediately pursue its remedies to prevent or limit harm to the Conservation Values of the Property. If the Conservancy determines that this Conservation Easement is, or is expected to be, violated, and the Conservancy's good-faith and reasonable efforts to notify the Owner are unsuccessful, the Conservancy may pursue its lawful remedies to mitigate or prevent harm to the Conservation Values without prior notice and without awaiting the Owner's opportunity to cure. The Owner agrees to reimburse all reasonable costs and attorney fees associated with the investigation, prevention, mediation, and remediation of harm.
- D. **Failure to Act.** If, within twenty-eight (28) days after written notice, the Owner does not implement corrective measures requested by the Conservancy or fails to supply a resolution satisfactory to the Conservancy, the Conservancy may bring an action in law and/or in equity to enforce the terms of the Conservation Easement. In the case of immediate or irreparable harm, as determined in the sole discretion of the Conservancy, or if an Owner is unable to be notified, the Conservancy may invoke these same remedies without notification and/or awaiting the expiration of the 28-day period. The Conservancy is entitled to enjoin the violation through temporary or permanent injunctive relief without bond or other security, and to seek specific performance, declaratory relief, restitution, reimbursement of expenses, and/or an order compelling the Owner to

restore the Property. If the court determines that the Owner has failed to comply with this Conservation Easement, the Owner shall also reimburse the Conservancy for all reasonable litigation costs and reasonable attorney's fees, and all costs of corrective action or Property restoration incurred by the Conservancy.

- E. **Actual or Threatened Non-Compliance.** The Conservancy's rights under this **Section 7** apply in the event of either actual or threatened violations of the terms of this Easement. The Owner agrees that the Conservancy's claim for money damages for any violation of the terms of this Easement is inadequate. The Conservancy shall also be entitled to affirmative and prohibitive injunctive relief and specific performance, both prohibitive and mandatory. The Conservancy's claim for injunctive relief or specific performance for a violation of this Conservation Easement shall not require proof of actual damages to the Conservation Values.
 - F. **Cumulative Remedies.** The preceding remedies of the Conservancy are cumulative not exclusive and shall be in addition to all other remedies. Any, or all, of the remedies may be invoked by the Conservancy if there is an actual or threatened violation of this Conservation Easement.
8. **NOTIFICATION PROVISION.** The Conservancy is entitled to sixty (60) days written notice whenever its approval is required under this Conservation Easement. The Conservancy may obtain an additional thirty (30) day period to provide its approval by notifying the Owner of its intent to extend the time within the original sixty (60) day period. If the Conservancy fails to respond within sixty (60) days after it receives the written request, then its approval shall be deemed given. This implied approval shall not extend to any activity contrary to this Conservation Easement or impairing a Conservation Value. The Conservancy's approval shall continue for three years. If the approved activity is not commenced within three (3) months and diligently pursued or not completed within three (3) years after the approval date, then the Owner must re-submit the written application to the Conservancy.

If approval or consent to any proposed action or plan of the Owner (Owner's Proposal) is required under this Easement the Conservancy's approval or consent may be in the form of a Letter of Non-Objection from the Conservancy. Provided further, any consent, approval, or Letter of Non-objection shall not: a) create any liability on behalf of the Conservancy to any person regarding the Owner's Proposal, b) create any right to deviate from the terms of this Easement or act otherwise inconsistently with the Conservation Values protected by this Easement, c) be any endorsement, representation or warranty by the Conservancy regarding the soundness, safety, design, feasibility, functionality, or other aspect of the Owner's Proposal, d) create any precedent or other right to use of the Property in a manner inconsistent with the terms of this Easement, or e) create any bar to the Conservancy's right to enforce the terms of this Easement.

9. **SUBORDINATION.** Owner represents and warrants that as of the date of execution and recording of this Conservation Easement, the Property is not subject to any mortgage,

lien, claim or interest which has not been subordinated to this Conservation Easement. Any mortgage, lien, claim or interest in the Property arising after the date of recording this Conservation Easement shall be subject and subordinate to the terms of this Conservation Easement.

10. **CONSERVATION EASEMENT REQUIREMENTS UNDER MICHIGAN LAW AND UNITED STATES TREASURY REGULATIONS.**

- A. This Conservation Easement is an interest in real property created pursuant to the Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and Environmental Protection Act (NREPA) - MCL §§ 324.2140 *et seq.*
- B. This Conservation Easement is established for conservation purposes pursuant to the Internal Revenue Code, as amended at Title 26, U.S.C.A., Section 170(h)(1)-(6) and Sections 2031(c), 2055, and 2522, and under Treasury Regulations at Title 26 C.F.R. § 1.170A-14 *et seq.*, as amended.
- C. The Conservancy is qualified to hold conservation easements pursuant to these statutes. It is a publicly supported, non-profit 501(c)(3) organization and all as defined by the applicable provisions of the Internal Revenue Code.

11. **OWNERSHIP COSTS AND LIABILITIES.** In accepting this Conservation Easement, the Conservancy shall have no liability or other obligation for costs, liabilities, taxes, or insurance of any kind related to the Property. The Conservancy's rights do not include the right, in absence of a judicial decree, to enter the Property for the purpose of becoming an operator of the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act. The Conservancy, its members, trustees or directors, officers, employees, and managers have no liability arising from injury or death to any person or physical damage to any property on the Property. The Owner agrees to defend, indemnify and hold harmless the Conservancy against such claims arising during the term of the Owner's ownership of the Property. Subsequent owners of the Property will similarly defend and indemnify the Conservancy for any claims arising during the tenure of their ownership. Notwithstanding the foregoing, the Conservancy shall indemnify and hold harmless the Owner from any claims for injury or death of any person or property incurred in connection with or arising out of the Conservancy's use of the Property.

12. **HAZARDOUS MATERIALS.** Owner represents, warrants and agrees Owner has no actual or constructive knowledge of, and shall not permit the presence, release or storage of, any hazardous substances or hazardous wastes upon the Property. [Hazardous substances and materials shall include reference to any chemicals, materials, petroleum products, agricultural wastes, in such form quantity or quality that is subject to regulation as hazardous or toxic under applicable, federal, state or local laws, regulations or otherwise and any material or substance that is know to, or may have adverse, harmful, or detrimental impacts on human or animal health or the environment. Owner shall defend,

indemnify, and hold harmless the Conservancy from and against any claims arising out of any violation of this provision.

13. **REGULATORY AUTHORITY.** The Owner is solely responsible for obtaining any applicable permit or authorization or otherwise ensuring that any proposed use, building, construction, design, location, or other specification related to the Property meets applicable local, state, and federal zoning, requirement, regulation, rule, policy, or standard. In accepting this Conservation Easement, or in reviewing and/or approving any use, building, construction, design, location, or any other specification related to the Property or the use or development of the Property, the Conservancy makes no warranty that the proposed use, building, construction, design, location, or other specification or activity meets any local, state, or federal zoning, requirement, regulation, rule, policy, or standard and assumes no responsibility and be subject to no liability for the same.
14. **CESSATION OF EXISTENCE.** If the Conservancy shall cease to exist or if it fails to be a "qualified organization" for purposes of Internal Revenue Code Section 170(h)(3), or if the Conservancy is no longer authorized to acquire and hold conservation easements, then this Conservation Easement shall become vested in another entity which shall be a "qualified organization" for purposes of Internal Revenue Code Section 170(h)(3). The Conservancy's rights and responsibilities shall be assigned to any entity having similar conservation purposes to which such right may be awarded under the *cy pres* doctrine.
15. **ASSIGNMENT.** Without notice to or consent of the Owner the Conservancy may assign its rights and obligations under this Conservation Easement only to an organization that, at the time of the assignment, is a "qualified conservation organization" under Section 170(h) of the Code of 1986, as amended. The Conservancy shall require as a condition of assignment that the assignee assume all obligations under this Conservation Easement.
16. **TERMINATION.** This Conservation Easement may be extinguished only by an A. unexpected change in condition which causes it to be impossible to fulfill the Purposes, or B. by exercise of eminent domain.
 - A. **Unexpected Change in Conditions.** If subsequent circumstances render the Purposes impossible to fulfill, then this Conservation Easement may be partially or entirely terminated only by judicial proceedings. The Conservancy will then be entitled to compensation in accordance with the provisions of Internal Revenue Code Treasury Regulations Section 1.170A-14(g)(6)(ii). Notwithstanding the foregoing, the Owner and Conservancy intend that this Conservation Easement not be subject to the legal doctrine of "changed conditions" that is applied to traditional servitudes. In making this grant, Donors have considered the possibility that uses prohibited by the terms of this easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under the terms of the Conservation Easement shall not impair the validity of this Conservation

Easement or be considered grounds for its termination or extinguishment. It is the intent of Owner that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment or amendment of this Conservation Easement.

- B. **Eminent Domain.** If the Property is taken, in whole or in part, by power of eminent domain, then the Conservancy will be entitled to compensation by the method as is set forth in IRC Treasury Regulations Section 1.170A-14(g)(6)(ii) in effect on the date of this Conservation Easement.
17. **LIBERAL CONSTRUCTION.** This Conservation Easement shall be liberally construed in favor of maintaining the Conservation Values of the Property and in accordance with the Conservation and Historic Preservation Easement, Sub part 11 of Part 21 of the Michigan Natural Resources and Environmental Protection Act MCL 324.2140 *et seq.*
18. **AMENDMENT.** Owner and Conservancy may jointly amend this Conservation Easement; provided that (i) such amendment shall be approved by the Conservancy in its sole and absolute discretion, (ii) no amendment shall be allowed that shall impact the qualification of this Conservation Easement or the status of the Conservancy under any applicable laws, including MCL 324.2140 – 324.2144, or Section 170(h) of the Code, (iii) any amendment shall be consistent with the Purposes, (iv) shall not impact the perpetual duration of this Conservation Easement, (v) shall be allowed to add real property to the legal description and, therefore, preserve additional land, and (vi) shall be allowed to correct clerical errors in the recorded document, such as an inaccuracy in a legal description. Any such amendment shall be in writing and recorded in the official records of Kalamazoo County, Michigan, and any other jurisdiction in which such recording is required.
19. **NOTICES.** For purposes of this Conservation Easement, required written notices shall be sufficient if provided by either party to the other party by personal delivery or by First Class mail to the most recent address of record. If a new party succeeds either party or either party changes its address, the new address information shall be provided in writing to the other party as soon as practicable by personal delivery or First Class mail. Service will be complete upon personal delivery or upon depositing the properly addressed notice with the U.S. Postal Service with sufficient postage prepaid.
20. **SEVERABILITY.** If any portion of this Conservation Easement is determined to be invalid, the remaining provisions will remain in force.
21. **SUCCESSORS.** This Conservation Easement is binding upon, and inures to the benefit of, the Owner's and the Conservancy's successors in interest. All subsequent owners of the Property are bound to all provisions of this Conservation Easement to the same extent as the Owner/Donor.
22. **TERMINATION OF RIGHTS AND OBLIGATIONS.** A party's future rights and

obligations under this Conservation Easement terminate upon transfer of that party's interest in the Property. Liability for acts or omissions occurring or accruing prior to transfer will survive the transfer.

23. **MICHIGAN LAW.** This Conservation Easement will be construed in accordance with Michigan Law.
24. **ENTIRE AGREEMENT.** This Conservation Easement sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.
25. **CONSTRUCTION.** All Parties have reviewed this Agreement. Neither of the parties shall be deemed draftsman of this Agreement or any part thereof, each having had the benefit of counsel of the party's own choosing in negotiating its terms. Should any provision in the Agreement require judicial interpretation, the court interpreting or construing such provision shall not apply a presumption that such provision shall be more strictly construed against the party who drafted such provision.
26. **EXHIBITS.** This Conservation Easement includes, and incorporates the following Exhibits:
 - A. Baseline Documentation Map

CERTIFICATION

DONOR/OWNER:

Ronora Lodge & Retreat Center LLC

Durward J. Gehring a/k/a James Gehring a/k/a Jim Gehring, Manager of Ronora Lodge & Retreat Center LLC

Its: Owner

STATE OF MICHIGAN)

)ss.

COUNTY OF Kalamazoo)

Acknowledged before me on this 30th day of November, of 2011, by Durward J. Gehring a/k/a James Gehring a/k/a Jim Gehring, a single man.

SARA E. FRASZ
NOTARY PUBLIC, STATE OF MI
COUNTY OF KALAMAZOO
MY COMMISSION EXPIRES Apr 9, 2013
ACTING IN COUNTY OF Kalamazoo

[Signature]
Notary Public

____ County, Michigan
Acting in _____ County
My commission expires: _____

DONEE/SOUTHWEST MICHIGAN LAND CONSERVANCY:

[Signature]

Peter D. Ter Louw
Its: Executive Director

STATE OF MICHIGAN)

)ss.

COUNTY OF Kalamazoo)

Acknowledged before me on this 30th day of November, of 2011, by Peter D. Ter Louw, known to me to be the Executive Director of the Southwest Michigan Land Conservancy.

SARA E. FRASZ
NOTARY PUBLIC, STATE OF MI
COUNTY OF KALAMAZOO
MY COMMISSION EXPIRES Apr 9, 2013
ACTING IN COUNTY OF Kalamazoo

Notary Public

[Signature]

____ County, Michigan
Acting in _____ County
My commission expires: _____

SEND TAX BILL TO:

Owner

PREPARED BY AND AFTER RECORDING SEND TO:

Geoffrey Cripe

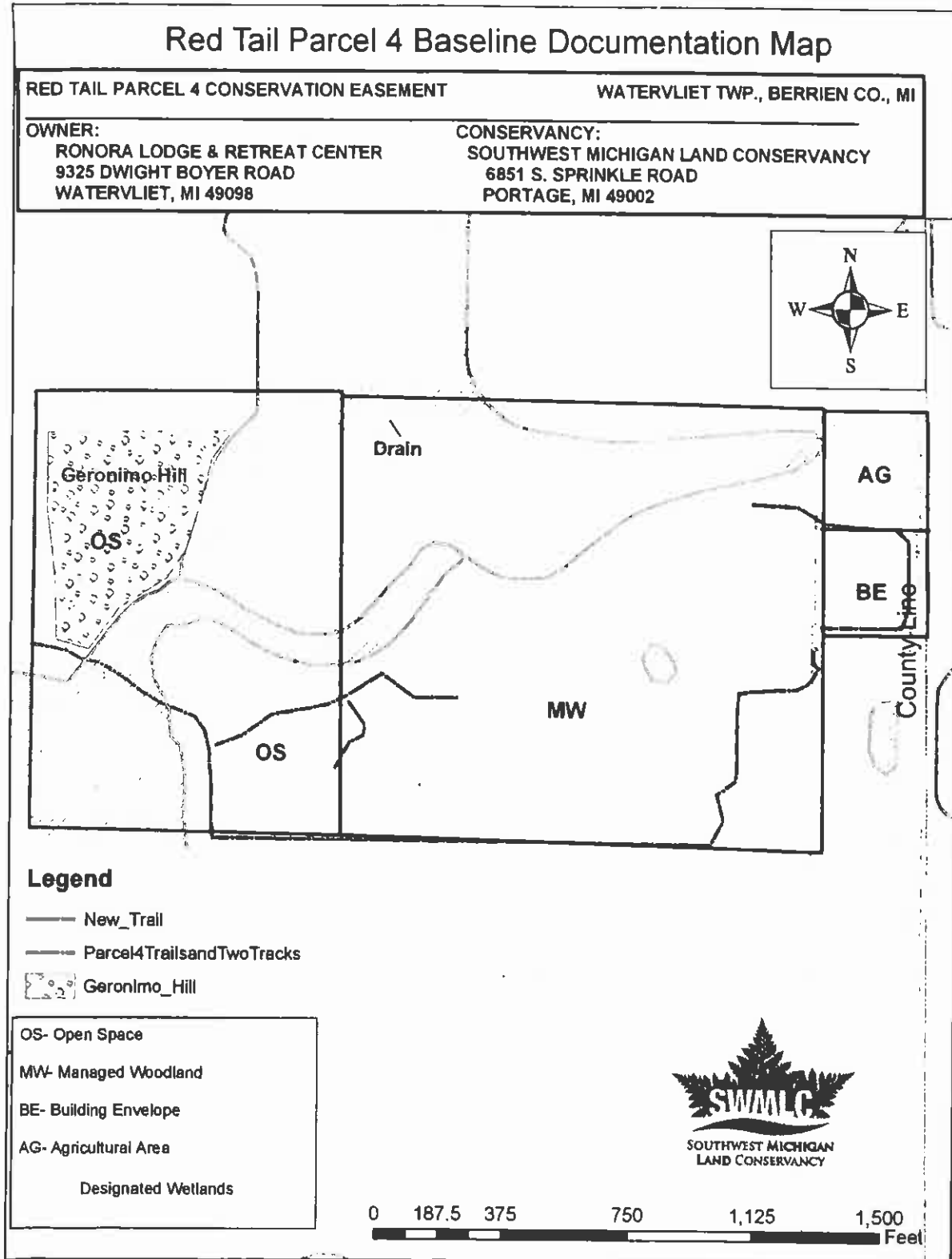
Land Protection Specialist

Southwest Michigan Land Conservancy

6851 S. Sprinkle Road

Portage, MI 49002

Exhibit A.



Red Tail Parcel 4 Baseline Documentation Map

RED TAIL PARCEL 4 CONSERVATION EASEMENT

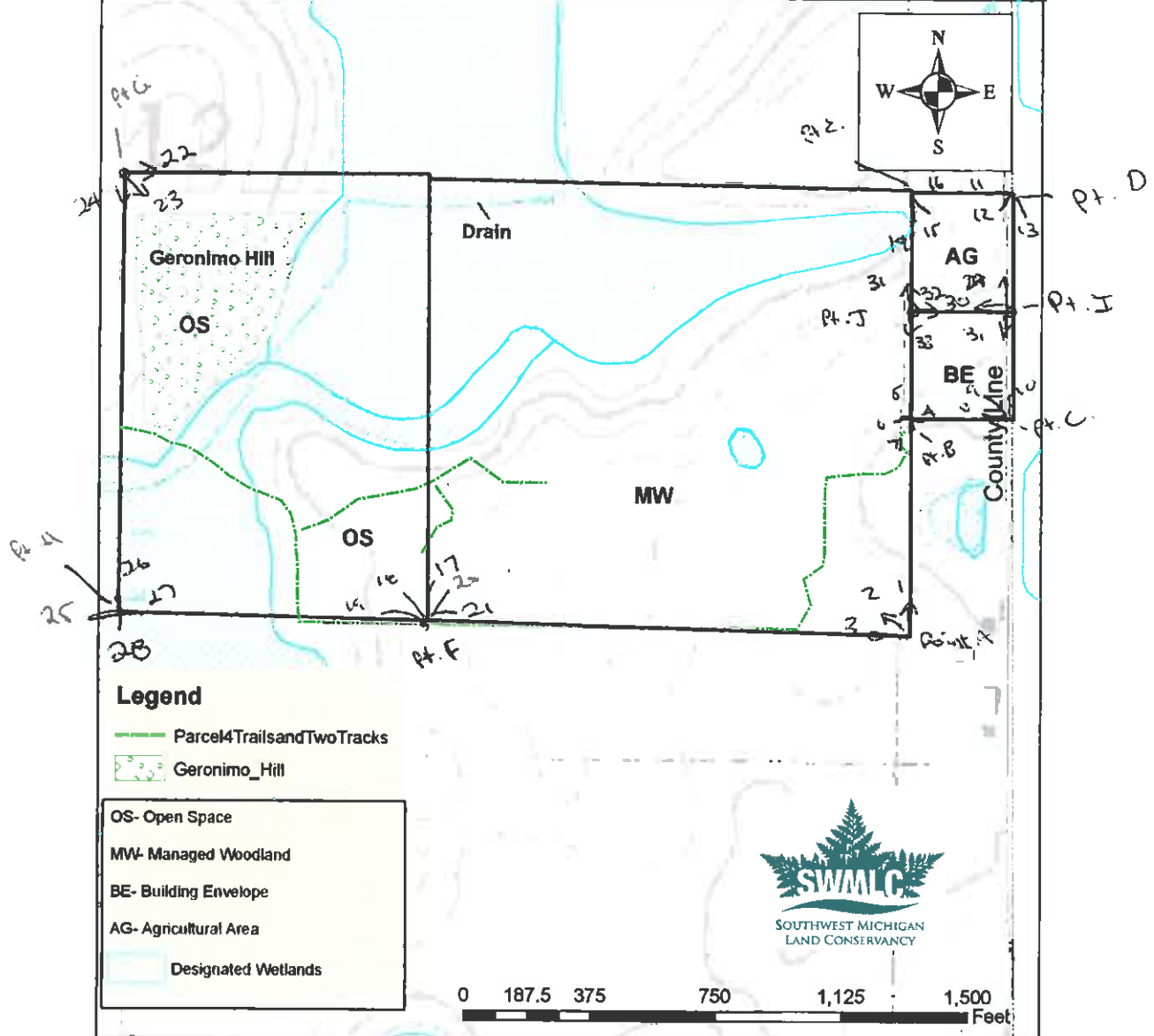
WATERVLIET TWP., BERRIEN CO., MI

OWNER:

RONORA LODGE & RETREAT CENTER
9325 DWIGHT BOYER ROAD
WATERVLIET, MI 49098

CONSERVANCY:

SOUTHWEST MICHIGAN LAND CONSERVANCY
6851 S. SPRINKLE ROAD
PORTAGE, MI 49002



Legend

Parcel4TrailsandTwoTracks

Geronimo_Hill

OS- Open Space

MW- Managed Woodland

BE- Building Envelope

AG- Agricultural Area

Designated Wetlands



0 187.5 375 750 1,125 1,500 Feet

