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EASEMENT
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Kelly Seward, Recorder, Monona County Iowa



CONSERVATION EASEMENT
Recorder's Cover Sheet

Preparer Information: Scott A. Hall, 303 Locust Street, Suite 400, Des Moines, IA 50309,
Phone: 515-282-6803

Taxpayer Information: Mary Katherine Dial Property Management Trust, 2100 34th St, Des
Moines, IA 50310

Return Document To: Whiterock Conservancy, 1436 Hwy 141, Coon Rapids, IA 50058

Grantors: Mary Katherine Dial Property Management Trust

Grantees: Whiterock Conservancy

Legal Description: See Exhibit A

Document or instrument number of previously recorded documents:

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT ("Agreement") is made as of this 30 day of January 2023, by the Mary Katherine Dial Property Management Trust, an Iowa situs trust, having an address at 2100 34th St, Des Moines, IA 50310 ("Grantor"), to the Whiterock Conservancy, an Iowa nonprofit corporation, having an address at 1436 Highway 141, Coon Rapids, IA 50058 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of approximately 157.2 acres of real property located at 41745 190th St, Ute, IA 51060, more particularly described in Exhibit A attached hereto and made a part hereof ("Conservation Property"); and

WHEREAS, the Conservation Property possesses healthy topsoil that contains diverse micro-organismal communities, good aggregation, and minimal erosion; erosion control and water management structures; riparian buffers, timber, and other perennially vegetated spaces to protect and improve the soil conservation and health ("Conservation Values") of great importance to Grantee and to the people of Monona County, and the State of Iowa; and

WHEREAS, Grantor as owner of the Conservation Property, desires to convey an easement to Grantee ("Conservation Easement"), to assure that the Conservation Values of the Conservation Property are preserved and protected in perpetuity, subject to the terms of this Agreement; and

WHEREAS, Grantee is a private, non-profit, tax-exempt organization that exists to balance sustainable agriculture, natural resource protection, and public recreation on the landscape, and thereby support the Iowa public by carrying out their purposes relating to land preservation, land restoration, conservation, sustainable agriculture, education, and recreation; and

WHEREAS, Grantee is a tax-exempt organization under Section 501(c)(3) of the Code, an organization other than a private foundation under Section 509(a)(1) of said Code, namely a Type I Supporting Organization that it is controlled by its supported organizations, namely the Iowa Natural Heritage Foundation, The Leopold Center for Sustainable Agriculture, and the Iowa Department of Natural Resources, and is therefore a "qualified organization" under both Section 170(h)(3) of the Internal Revenue Code and is also authorized to accept, hold, and administer interests in land, including conservation easements pursuant to Chapter 457A of the Iowa Code; and

WHEREAS, Grantee agrees by accepting this Agreement to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Conservation Property for the benefit of this generation and the generations to come; and

WHEREAS, protection of the Conservation Property on the terms set forth herein will accomplish a number of the factors determining "significant public benefit" under Treas. Reg. Section 1.170A-14(d)(4)(iv); and

WHEREAS, accordingly, protection of the Conservation Property will protect and preserve open-space and scenic views and protect soil health and water quality, all pursuant to clearly delineated Federal, State and local governmental conservation policies and will yield a significant public benefit, and will therefore meet the requirements of Subsections 170(h)(4)(A)(iii)(I) and 170(h)(4)(A)(iii)(II) of the Code; and

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby conveys to Grantee this Conservation Easement in perpetuity over the Conservation Property of the nature and character and to the extent hereinafter set forth.

ARTICLE I. CONSERVATION PURPOSE/EASEMENT.

- 1.1. It is the purpose of this Easement to preserve the Conservation Property as sustainable, scenic, open-space land by protecting it from soil erosion and by maintaining or enhancing soil health and by permitting the erection of buildings and other structures only within the delineated Building Envelopes. This Easement exists to prevent any use of the Conservation Property that would significantly impair or interfere with its Conservation Values. The primary Conservation Values intended to be preserved on these scenic, open space Iowa lands are healthy soils, primarily measured by soil water aggregate stability and visual assessment. Other metrics such as rate of erosion, soil organic matter, water infiltration rates, soil bulk density, and soil microbial measurements may also be monitored. Existing and planned erosion control structures delineated in the attached Baseline Data will be maintained or enhanced to protect water quality and prevent soil erosion, enhancing the long-term sustainability of the land and protecting the Conservation Values for the longest possible period.
- 1.2. This Agreement hereby preserves and protects in perpetuity the Conservation Values and the Conservation Property character, use, and utility, and is intended to prevent any use of the Conservation Property that would significantly impair or interfere with its Conservation Values, character, use, or utility. The restrictive provisions of this Agreement are intended to retain, build, and enhance the Conservation Property's topsoil, thereby maintaining and improving the soil's physical structure, biology, ecosystems, and function.
- 1.3. The rights conveyed by this Agreement and the Conservation Easement granted herein do not constitute a conveyance of a fee interest in the Conservation Property nor of any of the mineral rights therein and thereunder.

ARTICLE II. CONSERVATION PROPERTY.

- 2.1. The Conservation Property consists of approximately 157.2 acres of land located at 41745 190th St, Ute, IA 51060, and more particularly described in Exhibit A.
- 2.2. All costs related to the ownership, operation, and maintenance of the Conservation Property shall be borne by Grantor unless such costs and maintenance shall be required as a result of the negligence of Grantee or its directors, officers, employees, agents, contractors, successors, or assigns. Notwithstanding the foregoing, the obligations contained in this Agreement with respect to the Conservation Easement shall be joint and several.

- 2.3. The Conservation Property includes the following conservation qualities and practices throughout the Grantor's ownership of the same: terraces, riparian buffers, regular crop rotation between corn and soybeans, and timber. Ninety-five and nine tenths of an acre (95.9) were enrolled in the Conservation Reserve Program (CRP) for twenty-two (22) years. The tillable acres have been primarily "no-tilled" for the past thirteen (13) years. Cover crops were planted over all tillable acres fall of 2022, excluding the south fields being converted to perennial grassland early 2023. Two (2) grassed waterways and two (2) perennial grasslands are to be installed in collaboration with the FSA in early 2023.

ARTICLE III. GRANT OF EASEMENT.

- 3.1. Grantor hereby grants to Grantee the following rights and interests:
- (a) To identify, preserve, and protect in perpetuity the Conservation Values of the Conservation Property.
 - (b) To enter upon, inspect, observe, and study the Conservation Property for the purposes of identifying the current uses and practices and the baseline condition, monitoring the uses and practices of the Conservation Property to determine if they are following this Agreement, and assure that any further activities do not compromise the Conservation Values. Grantee shall provide Grantor reasonable notice of any planned entry. Grantee agrees to exercise its rights of entry in a manner that will not unreasonably interfere with Grantor's use and enjoyment of the Conservation Property.
 - (c) To prevent any activity or use of the Conservation Property that is inconsistent with this Agreement and/or to compel Grantor to repair and restore any areas or features of the Conservation Property that have been damaged by any restricted or prohibited activity or use.
 - (d) To erect and maintain appropriate signage and/or markers in location(s) satisfactory to Grantee bearing information that the Conservation Property is protected land.
- 3.2. The Conservation Easement granted by this Agreement shall be perpetual and shall run with the land. The Conservation Easement is enforceable by Grantee against Grantor and Grantor's successors, assigns, lessees, agents, and licensees.
- 3.3. This Conservation Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Code and the applicable regulations promulgated thereunder and authorized to acquire and hold conservation easements under Chapter 457A of the Code of Iowa (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the conservation purposes that this grant is intended to advance, continue to be observed.
- 3.4. If Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Code or to be authorized to acquire and hold conservation easements under Iowa law, and a prior assignment is not made pursuant to paragraph 3.3, then Grantee's rights and obligations under this Easement shall become immediately vested in the Iowa Natural Heritage Foundation. If the Iowa Natural Heritage Foundation is no longer in existence at the time the rights and obligations under this Easement would otherwise vest in it, or if the Iowa Natural Heritage Foundation is not qualified or authorized to hold conservation easements as provided with respect to assignments pursuant to paragraph 3.3, or if it shall

refuse such rights and obligations, then the rights and obligations of this Easement shall vest in such organization as a court of competent jurisdiction shall direct pursuant to applicable Iowa law and with due regard to the requirements for an assignment pursuant to paragraph 3.3. Should no qualified charitable organization desirable to the Grantor be in existence, this easement may be assigned or transferred to a unit of government.

- 3.5. Any future transfer or conveyance of any interest in or to the Conservation Property or any part thereof shall be subject and subordinate to the terms, conditions, restrictions, and purposes of this Agreement and the Conservation Easement conveyed hereby, and every instrument of transfer or conveyance in or to the Conservation Property from and after the date hereof shall contain a reference to this Agreement. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be construed to in any way limit Grantee's ability to freely sell, convey, assign, or otherwise transfer the Conservation Property interest and rights, or any portions thereof, granted by this Agreement to any other person or entity.
- 3.6. Upon the transfer of title of the Conservation Property after the recording of this Easement, the Grantee shall be paid the sum of \$2,000 from the transferee at the time of transfer for the continuation of the easement monitoring fund. This transfer fee shall constitute a lien against the Conservation Property until paid.
- 3.7. Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Conservation Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Agreement or limit its enforceability in any way.
- 3.8. Upon the division or subdivision of the Conservation Property, consistent with the rules, regulations, and covenants contained herein, the party who has effectuated the Grantee shall be paid the sum of \$20,000 per each new divided parcel or subdivided lot from the party effectuating the division or subdivision at the time of such division.

ARTICLE IV. PERMITTED USES AND RESTRICTIONS.

- 4.1. Grantor and Grantee acknowledge and agree that the Conservation Property may be used and occupied for the permitted purposes set forth in Exhibit B, which permitted purposes shall include, without limitation, uses and practices customarily employed in connection with the preservation, enhancement, repair, and/or restoration of the Conservation Values.
- 4.2. Grantor and Grantee acknowledge and agree that the Conservation Property shall not be used or occupied for any restricted or prohibited use or purpose set forth in Exhibit C.
- 4.3. Grantor and Grantee acknowledge and agree that the permitted and prohibited uses as described in Exhibits B and C hereof are not intended to be exhaustive, but rather are illustrative of the types of uses and practices that are consistent and inconsistent, respectively, with the purpose of the Conservation Easement.
- 4.4. Notwithstanding the foregoing, neither Grantor nor Grantor's agents, assigns, successors, or personal representatives, nor any purchasers, lessees, or other users of the Conservation Property may use, disturb, or allow through intent or negligence the use or disturbance of

the Conservation Property in any manner that is inconsistent with the purposes of the Conservation Easement.

- 4.5. In the event that Grantor desires to undertake activities not explicitly permitted by Exhibit B, and not prohibited by the provisions of Exhibit C, or activities with respect to which Grantee's approval is specifically required, Grantor shall request such approval from Grantee in writing prior to Grantor undertaking such activity. The written request shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Agreement. Under no circumstances may Grantor undertake the requested activity until approved in writing by Grantee. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Agreement.

ARTICLE V. BASELINE REPORT, ACCESS, AND INSPECTION.

- 5.1. The natural and other characteristics of the Conservation Property, including its current use and state of development and improvement, are herein described in the report and map attached hereto as Exhibit D, prepared by Carissa Shoemaker and Tyler Bruck on behalf of Grantee, and acknowledged by the Grantor and Grantee to be a complete and accurate representation of the Conservation Property as of the date hereof ("Baseline Report").
- 5.2. Grantor and Grantee agree that the Baseline Report, data collected by Grantee, and data submitted by Grantor will be used by the parties to assess any changes to the Conservation Property and to ensure that the Conservation Property use remains consistent and in compliance with the terms of this Agreement.
- 5.3. Grantor and Grantee agree that in the event of a controversy with respect to the condition of the Conservation Property, either party shall be entitled to utilize other relevant documentation, surveys, or reports to assist in the resolution of the controversy and neither party shall be limited to the exclusive use of the Baseline Report and collected data.
- 5.4. Grantor and Grantee recognize that changes in economic conditions, in conservation technologies, in accepted property management practices, and/or in the situation of Grantor may result in an evolution of uses of the Conservation Property without violating the terms of this Agreement provided the uses are consistent with this Conservation Easement.
- 5.5. It is understood and agreed that the access rights granted by Section 3.1(b) permit the Grantee and its authorized representatives, successors, and assigns to have the right to enter the Conservation Property at all reasonable times for the purpose of inspecting the Conservation Property to determine if the Grantor or any of its successors and assigns is complying with the terms, conditions, and restrictions of the Conservation Easement. Grantor and Grantee acknowledge and agree that the Conservation Property is closed to the public unless Grantor decides at a later date to open the Conservation Property to the public, with prior written permission from Grantee.
- 5.6. During any inspection, Grantee shall undertake all reasonable actions to prevent the unlawful entry and trespass by unauthorized persons whose activities may harm the Conservation Values of the Conservation Property or the products or productive qualities of the Conservation Property. At all other times, Grantor shall undertake reasonable actions to prevent the unlawful entry and trespass by unauthorized persons whose activities may

harm the Conservation Values of the Conservation Property. In the event Grantor has undertaken reasonable actions to prevent the unlawful entry and trespass by persons, Grantor shall not be liable for harm to the Conservation Values of the Conservation Property stemming from trespassers.

- 5.7. Grantor promises, whenever requested, to provide Grantee with all relevant data in Grantor's possession relevant to cover plant use and efficacy (including without limitation spray records, records of planting dates and rates, yield data, and fertilization application data). Spray records, yield data, and planting date data will be provided contemporaneously and when requested by Grantee. Grantor promises that if and when Grantor or any tenant of Grantor conducts standard soil tests related to soil nutrients, soil organic matter, pH, etc., Grantor will immediately share all test results with Grantee, and will also provide Grantee, upon request, with all testing data in its possession (or its tenant's possession) related to fertility and soil health. Grantee is permitted to conduct its own tests in the event it wishes to supplement the data obtainable from Grantor regarding tests that Grantor (or its tenant) performs.
- 5.8. If data collected by Grantor or Grantee indicates a decline in soil volume, organic matter, aggregate water stability, or other measures over time, then Grantor and Grantee shall collaboratively work on a plan to address and, if possible, reverse such decline.

ARTICLE VI. RIGHTS RESERVED.

- 6.1. Grantor expressly reserves for itself, and its successors and assigns, the right of access to and the right of continued use of the Conservation Property for all purposes not inconsistent with this Agreement and the Conservation Easement granted herein, including, but not limited to, the right to quiet enjoyment of the Conservation Property, the rights of ingress and egress with respect to the Conservation Property, the right to fence the Conservation Property, and the right to sell, transfer, gift, or otherwise convey the Conservation Property in whole or in part.
- 6.2. Except as may be otherwise provided for herein, neither this Agreement nor the Conservation Easement granted by it shall be construed to limit, restrict, or in any way affect any property of the Grantor other than the Conservation Property, including any property adjacent to, surrounding, or near the Conservation Property.

ARTICLE VII. REAL ESTATE TAXES, LIENS, AND CONDEMNATION.

- 7.1. Grantor acknowledges and agrees that it shall pay before delinquent all real estate taxes, assessments, fees, and charges of whatever description levied on or assessed against the Conservation Property and, upon written request by Grantee, Grantor shall furnish Grantee with satisfactory evidence of payment. Grantor shall also keep the Conservation Property free of any and all liens, including, without limitation, any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
- 7.2. This Conservation Easement constitutes a real property interest immediately vested in Grantee, which the Parties stipulate to have a fair market value determined by multiplying the fair market value of the Conservation Property unencumbered by this Conservation Easement by the ratio of the value of this Conservation Easement at the time of this grant to the value of the Conservation Property, without deduction for the value of this

Conservation Easement, at the time of this Grant. The values at the time of this grant shall be those used to calculate the charitable contribution if any for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Code, and applicable regulations. The value of this Conservation Easement, as thus calculated, is intended to be the amount determined under the "before and after" method of said regulations, without reduction for any amount that may not produce an income tax benefit to Grantor on account, for example, of the receipt of bargain sale proceeds or the applicable percentage limitations on charitable contributions. For the purposes of this paragraph, once calculated, the ratio of the value of this Conservation Easement to the value of the Conservation Property unencumbered by this Conservation Easement shall remain constant.

- 7.3. If all or any of the Conservation Property shall be taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Conservation Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Conservation Property subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as otherwise may be provided by applicable law, Grantor and Grantee agree that Grantee's share of the balance of the amount recovered shall be an amount determined by multiplying the balance by the constant fraction, as determined under paragraph 7.2 above.

ARTICLE VIII. ENFORCEMENT/COSTS AND EXPENSES.

- 8.1. In the event the Grantee determines that Grantor is in violation of the terms of this Agreement or that a violation is threatened or imminent, Grantee shall give written notice to Grantor of the condition or violation, and they shall work together to devise a plan to avoid or remedy the breach in question, and such plan shall be implemented as soon as reasonably possible. In the event of a genuine dispute as to whether certain management actions are consistent with the spirit and letter of this Conservation Easement, and in such cases, they will work together whenever possible to submit the dispute to the Natural Resources Conservation Service (NRCS) or another mutually agreed upon expert to arbitrate the dispute and determine whether a violation has occurred, and on what should be done to cure a violation if one has occurred, thereby avoiding the need for litigation or dispute proceedings. *If and only if Grantor and Grantee fail after making reasonable efforts to agree upon a plan to avoid or remedy the breach in question, then the following formal dispute resolution mechanism shall commence.*
- 8.2. In the event the violation is not rectified, the Grantee shall give written notice demanding corrective action sufficient to cure the violation and, where the violation involves injury to the Conservation Property resulting from a use or activity inconsistent with the purpose of the Conservation Easement or otherwise restricted or prohibited by this Agreement, to restore the property so injured. In the event Grantor fails to cure the violation within thirty (30) days after receipt of written notice from Grantee or if the violation cannot reasonably be cured within thirty (30) days and Grantor shall fail to begin curing such violation within such time period and diligently pursue it to completion, Grantee may bring an action at law or in equity to enforce the terms of this Agreement, enjoin the violation by temporary or

permanent injunction, and recover any and all damages to which it may be entitled as a result of a violation of the terms of this Agreement and/or for injury to any Conservation Values, including damages for any loss thereof. In all events, Grantee shall be entitled to require Grantor to restore the Conservation Property to the condition that existed prior to any such injury.

- 8.3.** Grantee reserves the right to require immediate action or remediation in the event Grantee determines in its reasonable discretion that the circumstances warrant immediate intervention to prevent or mitigate significant damage to the Conservation Values of the Conservation Property. The provisions of this Section 8.3 are subject to the provisions of X hereof.
- 8.4.** Subject to the provisions of Articles X and XI hereof, Grantor acknowledges and agrees that it shall be responsible for any and all costs and expenses, including reasonable attorney's fees, incurred by Grantee in connection with the enforcement of this Agreement against Grantor. Notwithstanding the foregoing, in the event Grantor prevails in any enforcement or other action brought by either party in connection with this Agreement, Grantee acknowledges and agrees that it shall reimburse Grantor for all costs and expenses incurred in bringing or defending against such action including reasonable attorney's fees.
- 8.5.** If a dispute arises between the parties concerning the consistency of any proposed use or activity with the purposes of this Conservation Easement, and Grantor agrees not to proceed with the use or activity pending resolution of the dispute, either party may request mediation and a mutually agreed upon mediator may be chosen to mediate this dispute. If mediation is unsuccessfully, then either party may refer the dispute to arbitration by request made in writing upon the other. Within thirty (30) days of the receipt of such request, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of a single arbitrator, then each party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator; provided, however, that if either party fails to select an arbitrator, or if the two arbitrators selected by the parties fail to select the third arbitrator within fifteen (15) days after the appointment of the second arbitrator, then in each such instance a proper court, on petition of a party, shall appoint the second or third arbitrator, or both as the case may be, in accordance with Iowa law. The matter shall be settled in accordance with Iowa law then in effect, and a judgment on the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses related to such arbitration, including, without limitation, the fees and expenses of the arbitrators and attorney's fees, which shall be determined by the arbitrators and any court of competent jurisdiction that may be called upon to enforce or review the award.

ARTICLE IX. AUTHORITY.

- 9.1.** Grantee warrants and represents that it is authorized to hold easements for conservation purposes pursuant to the laws of Iowa or the United States. Grantee further represents that it is a not-for-profit corporation qualified under Iowa Code Chapter 504, empowered to hold an interest in real property under the laws of this State or the United States, or is a charitable, not-for-profit, or educational corporation, association, or trust, qualified under 26 U.S.C.S. § 170(h) and 26 U.S.C.S. § 501.

- 9.2. Grantor represents and warrants that it is the owner of the Conservation Property in fee simple and has the legal authority to grant the Conservation Easement by this Agreement. Grantor will warrant and defend title to the Conservation Property against all persons claiming title by, through or under Grantor.

ARTICLE X. FORCE MAJEURE/OTHER EMERGENCY ACTION.

- 10.1. Grantee acknowledges and agrees that Grantee shall not be entitled to bring any action against the Grantor for any injury to or change in the Conservation Property or Conservation Values resulting from causes beyond Grantor's control, including, but not limited to Acts of God, fire, flood, storm, and earth movement, or for any reasonable and prudent action undertaken by the Grantor in an emergency situation intended to prevent, abate, or mitigate significant injury to the Conservation Property and Conservation Values as a result of the emergency cause.

ARTICLE XI. INDEMNIFICATION.

- 11.1. Grantor acknowledges and agrees that it shall indemnify, defend, and hold harmless Grantee and its directors, officers, employees, agents and contractors, successors, and assigns from and against all liabilities, penalties, costs, losses, damages, expenses, causes for action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Conservation Property caused by the Grantor or its directors, officers, employees, agents and contractors, successors, and assigns.
- 11.2. Grantee acknowledges and agrees that it shall indemnify, defend, and hold harmless Grantor and its directors, officers, employees, agents and contractors, successors, and assigns from and against all liabilities, penalties, costs, losses, damages, expenses, causes for action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Conservation Property caused by the Grantee or its directors, officers, employees, agents and contractors, successors, and assigns.

ARTICLE XII. NO MODIFICATION.

- 12.1. This Agreement shall not be amended, modified, or terminated except by written instrument signed by the parties hereto or their respective successors or assigns. Any amendment, modification, or termination shall be recorded within thirty (30) days of its execution and a recorded copy of such instrument shall be delivered by the Grantor or its successors or assigns to Grantee within thirty (30) days of the recording thereof.

ARTICLE XIII. SEVERABILITY.

- 13.1. If any provision of this Agreement or the application thereof shall be declared invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to the parties or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

ARTICLE XIV. NOTICES.

- 14.1. All notices, requests, claims, demands, and other communications between the parties hereto shall be in writing and may be hand delivered with proof of delivery, emailed with delivery and/or read receipt, or shall be sent by nationally recognized overnight courier or certified or registered mail, return receipt requested. Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery. Notices shall be delivered to the parties at the addresses listed below or to such other address or addresses as may be provided in writing from time to time:

If to Grantor:

Mary Katherine Dial Property Management Trust, or Successors and Assigns
Attention: Mary Katherine Dial, Trustee
2100 34th St
Des Moines, IA 50310

With a copy to:

Carney & Appleby, PLC
303 Locust St, Ste 400
Des Moines, IA 50309
Attention: Scott A. Hall

If to Grantee:

Whiterock Conservancy
1436 Highway 141
Coon Rapids, IA 50058
Attention: Delbert "Butch" Niebuhr, or current President of Board of Directors

ARTICLE XV. NO WAIVER.

- 15.1. No waiver of any condition or legal right or remedy shall be implied by the failure of Grantee to enforce the terms of this Agreement, and any failure or forbearance by Grantee to exercise its rights under this Agreement shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Agreement or of any of Grantee's rights under this Agreement and the Conservation Easement. No waiver by Grantee in respect to any Grantor obligation under this Agreement shall constitute a waiver of a breach of any other obligation, condition, or covenant nor excuse a future breach of the same obligation, condition, or covenant.

ARTICLE XVI. GOVERNING LAW.

- 16.1. This Agreement shall be determined in accordance with the laws of the state in which the Conservation Property is located without regard to its rules of conflicts of laws.

ARTICLE XVII. SUCCESSORS.

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

ARTICLE XVIII. TERMINATION.

- 18.1. In the event conditions render the Conservation Property impossible for the continued use of the Conservation Values as contemplated by this Agreement, the Conservation Easement granted by this Agreement may be extinguished in whole or in part by judicial proceeding in any court of competent jurisdiction.

ARTICLE XIX. ENTIRE AGREEMENT.

- 19.1. This Agreement constitutes the entire agreement between the parties hereto with respect to the Conservation Easement. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between them other than as set forth in this Agreement and any such other documents are intended to be an integration of all prior or contemporaneous promises, agreements, conditions, and undertakings between the parties hereto. In executing and delivering this Agreement, Grantee has not relied on any statement, representation, or warranty by Grantor or any of its agents or employees that is not set forth herein.

[SIGNATURE PAGE FOLLOWS]

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

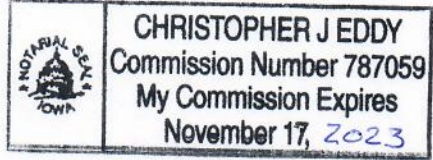
GRANTOR:

Mary Katherine Dial trustee
Mary Katherine Dial, as Trustee of the Mary Katherine Dial Property Management Trust

STATE OF IOWA
COUNTY OF CARROLL

This instrument was acknowledged before me on JANUARY 30, 2023 by Mary Katherine Dial as Trustee of the Mary Katherine Dial Property Management Trust.

Christopher J Eddy
Notary Public for the State of Iowa



GRANTEE:

Delbert "Butch" Niebuhr
Delbert "Butch" Niebuhr, as President of Whiterock Conservancy's Board of Directors

STATE OF IOWA
COUNTY OF CARROLL

This instrument was acknowledged before me on JANUARY 30, 2023 by Delbert "Butch" Niebuhr as President of Whiterock Conservancy's Board of Directors.

Christopher J Eddy
Notary Public for the State of Iowa

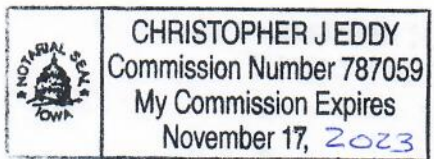


EXHIBIT A. LEGAL DESCRIPTION OF CONSERVATION PROPERTY.

The Northeast Quarter (NE¼) of Section Twenty-one (21), Township Eighty-four (84) North,
Range Forty-two (42), West of the 5th P.M., Monona County, Iowa;

Subject to all Covenants, Restrictions and Easements of record.

EXHIBIT B. CONSERVATION PROPERTY PERMITTED USES.

- Farming and grazing within designated areas, with any type of farming that adheres to the limitations detailed in Exhibit C.
 - Farming practices that increase biodiversity are encouraged but not required (e.g., crop rotation, intercropping, diverse cover crop mixes).
 - Farming practices that increase compaction are discouraged but not prohibited.
 - Injecting and/or “knifing in” fertilizers may be allowed with prior written permission from the Grantee, provided it is ecologically responsible and adheres to the Conservation Values of this Agreement.
- Development within a specified Building Envelope as delineated in Exhibit E, except as expressly prohibited in Exhibit C.
 - Barbed wire and woven wire fence erected to confine livestock is not a structure for purposes of this Agreement, nor is field tile. Such infrastructure may be constructed anywhere on the Conservation Property subject to the restrictions articulated in Exhibits B and C, and with a grazing plan approved by the Grantee prior to infrastructure installation.
- Change in landcover and/or land use within specified areas and parameters outlined in Exhibit D.
- The Conservation Property may be divided or subdivided and different parcels sold to different owners, provided that the party effecting the division shall deliver to Grantee \$20,000 for each new property created as part of any such division or subdivision, such contribution reflecting the enhanced monitoring costs that such division may cause Grantee to incur.
- Any and all other practices and uses that do not interfere materially with the Conservation Values of the Conservation Property.

EXHIBIT C. CONSERVATION PROPERTY PROHIBITED USES.

- Limitations to farming and other land uses:
 - No tillage of any kind (including plowing, discing, vertical tillage, stirring, overturning the soil, or otherwise mechanically agitating the soil) may occur without prior written consent of Grantee.
 - Consent will be given only if Grantee is satisfied that such tillage is being done for the purpose of installing or maintaining infrastructure, making changes to land use or management, or repairing damages, and that in the long run, the proposed tillage will result in the preservation or enhancement of soil health and water quality and the sustainability of the Conservation Property's use (considering all externalities) rather than in the reduction or dilution of such Conservation Values. Consent is also contingent on a written plan submitted by the Grantor to restore soil quality as quickly as reasonably possible, after considering issues of compaction and vegetative cover, and to minimize soil erosion and other deleterious consequences during the construction process and until vegetative cover is restored following construction.
 - Continuous living roots must be maintained in the ground throughout the year; planting must be done on-contour.
 - In furtherance of the requirement of continuous living roots in the ground, annual crop harvest shall be followed as soon as possible by a cover crop planting, and in no event shall the planting date be later than the cover crop planting date specified by the NRCS (barring a flood, excessively wet conditions, or other intervening act of God making compliance impossible, impractical, or ecologically irresponsible). Cover crops shall be applied using best practices as to methods and rates, and (except with prior written approval of Grantee). Unless Grantor and Grantee agree otherwise, a winter-hardy seed will be used at an application rate minimum as specified in NRCS cover crop standards. If due to the vagaries of nature, the Grantor misses the NRCS cover crop planting deadline, the Grantor shall make best efforts to establish a cover crop on a timetable and in a manner agreed to by Grantee. Until and unless best practices change and a deviation is agreed to by Grantor and Grantee in writing, there shall be a preference for drilling all cover crops.
 - Grantor will minimize the time between terminating the cover crop in the spring and planting the row crop. Additionally, for acres to be planted to corn or soybeans, then in no event will cover crops be terminated any sooner than 7 days before the initial crop insurance planting date for the crop being planted, and in no event more than 14 days before the actual crop planting date, (barring a flood, excessively wet conditions, or other intervening act of God making compliance impossible, impractical, or ecologically irresponsible).

- Deviations to these general requirements may be authorized in writing and in advance by Grantee when unusual circumstances warrant or as best practices and available technologies change over time,
 - Erosion control structures delineated in Exhibit D (terraces, critical planting areas, headlands, waterways, etc.) must be maintained, with modifications made only to enhance soil and water conservation, with Grantee's permission.
 - Removal or material change of any erosion control structure delineated in the Conservation Values Map included in Exhibit D, without the prior written consent of Grantee, which consent will be given only if Grantee is satisfied that in the long run, the requested changes will result in the preservation or enhancement of soil health and water quality rather than in the reduction or dilution of such Conservation Values over the long term.
 - Notwithstanding the above, where erosion control structures are out of compliance with existing NRCS maps or any CRP or other government contract or program requirements, Grantor can move those structures to bring them into compliance, as long as such relocation is done in a manner that is responsible and promotes rather than degrades soil health and water quality over the long term. Grantee agrees it will empower a designated staff member of Grantee immediately to approve urgent repairs necessitated by tile blow-outs or other emergent situations that require remediation on a timetable that does not reasonably allow for Grantee to undertake a more deliberative process. Minor repairs may be approved in the same manner, but major planned changes to erosion control structures shall be approved by Grantee only after Grantee's Board of Directors has given approval, and Grantor will agree to allow time sufficient for this deliberative process to occur.
 - Livestock density is not to exceed one (1) Animal Unit per 1.5 acres per year unless prior written permission for higher density stocking or grazing is given by the Grantee. Subject to this limitation, livestock provided their activities do not compromise the conservation values outlined in this Agreement and the ecological integrity of the Conservation Property.
- Construction or placement of any building or structure (other than erosion control structures, fences, and tiling) outside the designated Building Envelope, as delineated within Exhibit E.
 - Construction, erection, placement, or maintenance of any Confined Animal Feeding Operation (CAFO) or other Animal Feeding Operation is prohibited unless deemed to be permissible by Grantee.
- Any exploitation of mineral resources, by either subsurface or surface means, in a way that requires tillage or disturbing the soil or otherwise would be disadvantageous to soil health, water quality, and the Conservation Values of the Conservation Land is not allowable.
- No landfilling is allowed.

EXHIBIT D. CONSERVATION EASEMENT PROPERTY BASELINE REPORT.

Grantors: Mary Katherine Dial Property Management Trust

Grantees: Whiterock Conservancy

Conservation Easement Size: 157.2 acres, m/l

Prepared and Reviewed by: Carissa Shoemaker, Director of Land Stewardship at Whiterock Conservancy. Tyler Bruck, Land Programs Manager at Whiterock Conservancy

Date: January 25, 2023

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EXHIBIT D. AERIAL PHOTOGRAPH OF CONSERVATION PROPERTY.

Aerial image from 2021 showing landcover, approximate property boundary, and streams.

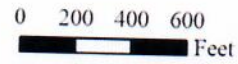


EXHIBIT D. MAP OF LAND USE ZONES AND STRUCTURES.

Land use zones, erosion control structures, and water management structures overlaid on aerial image with approximate property boundary and streams.

0 200 400 600 Feet



Source: Esri, USDA FSA, Esri Community Maps Contributors, Iowa DNR, Nebraska Game & Parks Commission, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

- | | | |
|-----------------|------------------------|----------------------|
| FSA Fields 2022 | Critical Planting Area | Perennial Vegetation |
| Waterways | Timber | Approximate Boundary |
| Terraces | Riparian Buffer | Streams |

EXHIBIT D. DESCRIPTION OF LAND USE ZONES AND STRUCTURES.

- **FSA Fields 2022:** map of Farm Service Agency (FSA), a service of the United States Department of Agriculture (USDA), delineated fields. Reflects field numbers and boundaries in 2022, subject to change. Included as reference only; FSA field boundaries do not necessarily reflect Conservation Easement zone boundaries, and their associated permitted and prohibited uses.
- **Waterways:** grassed waterways installed in 2023 via the Conservation Reserve Program (CRP) through the FSA. These constructed vegetated channels help convey runoff while mitigating erosion and topsoil loss. Waterway form and function must be maintained by Grantor, even if the waterways are not enrolled in CRP. Alteration, removal, or other use (e.g., haying, grazing) of these structures may be granted with a plan approved in advance in writing by Grantee, provided proposed changes support the conservation values articulated in this Agreement.
- **Terraces:** terraces were installed on hillsides to help intercept runoff and mitigate topsoil erosion. The form and function of these erosion control structures must be maintained by Grantor. Alteration, removal, or other use of these structures may be granted with a plan approved in advance in writing by Grantee, provided proposed changes support the conservation values articulated in this Agreement.
- **Critical Planting Area:** the defined critical planting area is highly erodible. As such, its erosion control structures and perennial vegetation must be maintained by Grantor unless Grantee gives written permission for alteration or removal. Compatible uses for critical planting areas may be considered on a case-by-case basis with Grantor's submission of a plan and subsequent written approval from Grantee, provided proposed uses support the conservation values articulated in this Agreement.
- **Timber:** timber protected under this Agreement must be maintained as a healthy, treed ecosystem by Grantor as long as climatic conditions allow. Grantor and Grantee shall collaboratively establish a management plan and compatible use agreement for the protected timber, to be revisited and revised as needed.
- **Riparian Buffer:** riparian buffers are natural or constructed perennial plant communities that flank streams or other waterbodies. They serve to mitigate risks to water quality by intercepting and filtering potential contaminants, infiltrating runoff, and stabilizing banks, while providing habitat. The riparian buffers protected under this Agreement must be maintained by Grantor. Grantor and Grantee shall collaboratively establish a management plan and compatible use agreement for the protected riparian buffers, to be revisited and revised as needed.
- **Perennial Vegetation:** the perennial vegetation zones delineated in Fields 25 and 10 were planted to native vegetation in 2023 as CRP through the FSA. These zones are to be maintained as perennial vegetation by Grantor in perpetuity, even if they are not enrolled in CRP. Grantor and Grantee shall collaboratively establish a management plan and compatible use agreement for these zones, to be revisited and revised as needed.

EXHIBIT D. PHOTO POINT MAP.

Photo point locations for baseline photos overlaid on map of land use zones and structures. Baseline photos were taken across property and land uses in 2022.

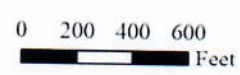


EXHIBIT D. BASELINE PHOTOGRAPHS.

Looking southerly from northwest corner of property, toward protected southwest timber and west property line. Photo documents conditions at the time: emerging corn, little residue, and light tillage. Soil health practices implemented subsequently are expected to protect and improve conservation values over time.



Looking southeasterly from mid-Field 20, toward building envelope and riparian buffer. Documents conditions at the time, as described above. Soil health practices implemented subsequently are expected to protect and improve conservation values over time.



Looking southwesterly from northeast corner of property, Field 22. Riparian buffer at end of field, with building envelope beyond. Documents conditions at the time, as above. Soil health practices are expected to protect and improve conservation values over time.



Three different streams meet on this property, with the main confluence at southeast corner. Riparian buffers flank streams, as depicted in Land Use Zones and Structures Map, stretching north to south and west to east, totaling approximately twenty-three (23) acres. Plant communities vary, ranging from cool season grasses to upland timber. Riparian buffer form and function must be maintained by Grantor to protect streams and provide ecosystem services.



Photo 4



Photo 5

42.08109 N, -95.73360 W



Photo 6

42.07960 N, -95.73328 W



Photo 7

42.07805 N, -95.73328 W



Photo 8

42.07507 N, -95.73351 W

Two stands of timber are protected onsite in the southwest corner of the property, totaling approximately 3.37 acres (see Land Use Zones and Structures Map). West timber in 2022 at time of visit had 20-30% canopy cover m/l with a variety of trees present (oak, bitternut hickory, linden, mulberry, red cedar, etc.). East timber had 60% canopy cover m/l with diverse trees (oak, elm, red cedar, hackberry, etc.). Understory varied, ranging from sparse forb and sedge cover, to dense cool season grasses, to shrubs and understory trees.



EXHIBIT D. SOIL SAMPLE POINT MAP.

Soil sample points for baseline soil assessment overlaid on map of land use zones and structures. Baseline sampling was conducted in spring and fall of 2022.



EXHIBIT D. SOIL SAMPLE DATA.

Mary Kay Dial Farm - 157.2 acres										
Soil Aggregate Stability Spring 2022										
Farm Name	Sample ID	Latitude	Longitude	Lab No	Grower	Beginning Depth	Ending Depth	*Macro Aggregates	** Micro Aggregates	% Total Aggregates
Dial Farm West	101W	42.08001	-95.73751	8092	WRC	0	6	48.3	34.9	83.2
Dial Farm East	102E	42.08056	-95.7325	8093	WRC	0	6	47.9	35.7	83.6
Dial Farm Baseline	103PS	42.08029	-95.73019	8094	WRC	0	6	44.4	38.8	83.1
*Macroaggregates, % > 0.25mm										
**Microaggregates, % <0.25, >0.5053										

Mary Kay Dial Farm - 157.2 acres										
Soil Aggregate Stability Fall 2022										
Farm Name	Sample ID	Latitude	Longitude	Lab No	Grower	Beginning Depth	Ending Depth	*Macro Aggregates	** Micro Aggregates	% Total Aggregates
Dial Farm West	101W	42.08001	-95.73751	27523	WRC	0	6	47.9	40.4	88.3
Dial Farm East	102E	42.08056	-95.7325	27524	WRC	0	6	53.8	37.2	91
Dial Farm Baseline	103PS	42.08029	-95.73019	27525	WRC	0	6	48.8	40.7	89.5
*Macroaggregates, % > 0.25mm										
**Microaggregates, % <0.25, >0.5053										

Haney Soil Test Fall 2022																								
Lab No	Field ID	Sample ID	Ending Depth	Soil pH 1:1	Wdfr buffer	1:1 Electrical Conductivity, mmho/cm	Excess Lime	Organic Matter, % LOI	1N KCl-Nitrate, ppm NO3-N	1N KCl-Nitrate, lbs/A N	M3-P, ppm PO4-P	M3-Sulfur, ppm S	NH4OAc-Nitrogen, ppm N	NH4OAc-Calcium, ppm Ca	NH4OAc-Magnesium, ppm Mg	NH4OAc-Sodium, ppm Na	CEC, meq/100 g	Base Saturation, %	Hydrogen Sat, % Sat	Calcium Sat, % Sat	Magnesium Sat, % Sat	Potassium Sat, % Sat	Sodium Sat, % Sat	
27523	DIAL FARM WEST	101W	6	5.7	6.4	0.13	NONE	4	10.2	18	17.7	11.4	184.8	152	354.43	18.79	20.2	63	37	46	15	2	0	0
27524	DIAL FARM EAST	102E	6	6.5	6.8	0.12	NONE	4.1	8.1	15	32.1	9	251.7	232	335.46	18.99	17	87	13	66	16	4	0	
27525	DIAL FARM BASELINE	103PS	6	7.6		0.13	NONE	4.3	0.9	2	44.5	9.1	339.4	238	350.44	16.34	16.6	100	-	76	18	5	0	

Samples taken by Whiterock Conservancy on 11/18/2022
 Testing completed by Regen Ag Lab with report date of 11/22/2022

EXHIBIT D. OWNER ACKNOWLEDGEMENT OF CONDITION.

Grantor and Grantee agree that the Baseline Documentation Report is an accurate representation of the protected Conservation Property at the time of the transfer.

GRANTOR

Mary Katherine Dial Property Management Trust

By: Mary Katherine Dial trustee
Mary Katherine Dial

GRANTEE

Whiterock Conservancy

By: Delbert "Butch" Niebuhr PRESIDENT
Delbert "Butch" Niebuhr, President of the Board of Directors

GRANTOR ACKNOWLEDGMENT

STATE OF IOWA, COUNTY OF CARROLL

This instrument was acknowledged before me on JANUARY 30, 2023,
by Mary Katherine Dial.



CHRISTOPHER J EDDY
Commission Number 787059
My Commission Expires
November 17, 2023

Christopher J Eddy
Notary Public

GRANTEE ACKNOWLEDGMENT

STATE OF IOWA, COUNTY OF CARROLL

This instrument was acknowledged before me on JANUARY 30, 2023,
by Delbert "Butch" Niebuhr, as President of the Board of Directors of Whiterock Conservancy.

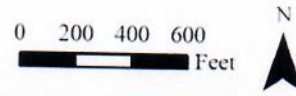


CHRISTOPHER J EDDY
Commission Number 787059
My Commission Expires
November 17, 2023

Christopher J Eddy
Notary Public

EXHIBIT E. BUILDING ENVELOPE DELINEATION.

Development is restricted to a 4-acre m/l building envelope, an area which shall adhere to the permitted and prohibited uses of this Agreement until and after its development.



**EXHIBIT F. PARTIAL LIST OF FEDERAL, STATE, AND LOCAL LAWS
ESTABLISHING SOIL HEALTH AND SOIL AND WATER CONSERVATION AS
IMPORTANT POLICIES BENEFICIAL TO THE GENERAL PUBLIC.**

FEDERAL LAW

16 U.S.C.A. § 590(a).

Purpose

“[T]he wastage of soil and moisture resources . . . resulting from soil erosion, is a menace to the national welfare and that it is declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion to preserve soil, water, and related resources ”

STATE OF IOWA LAW

Iowa Code Ann. § 161F.1 Presumption of Benefit

“The conservation of the soil resources of the state of Iowa, the proper control of water resources of the state and the prevention of damage to the property and lands throughout the control of floods, the drainage of surface waters or the protection of lands from overflow shall be presumed to be a public benefit and conducive to the public health, convenience and welfare and essential to the economic well-being of the state.”

Iowa Code. Ann. § 161A.2 Declaration of policy

“It is hereby declared to be the policy of the legislature to integrate the conservation of soil and water resources into the production of agricultural commodities to insure the long-term protection of the soil and water resources of the state of Iowa, and to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture, and thereby to preserve natural resources and promote the health, safety and public welfare of the people of this state.”

Iowa Code Ann. § 161A.4 Division of soil conservation and water quality.

161A.4(2)(g): “The plan shall be developed to preserve and protect the public interest in the soil and water resources of this state for future generations and for this purpose to encourage, promote, facilitate, and where such public interest requires, to mandate the conservation and proper control of and use of the soil and water resources of the state, by measures all of which shall be presumed to be conducive to the public health, convenience, and welfare.”

Iowa Code Ann. § 161A.5 Soil and water conservation districts

“The one hundred soil and water conservation districts established in the manner which was prescribed by law prior to July 1, 1975, shall continue in existence with the boundaries and the names in effect on July 1, 1975.”

Iowa Code Ann. § 161A.54 State agency conservation plans - - exemptions

“Each state agency shall enter into an agreement with the soil and water conservation district . . . Application for exemption from this section . . . shall be granted for land upon which soil management research for the purposes of the study, evaluation, understanding and control of erosion, sedimentation and run of water is conducted by or in conjunction with institutions governed by the board of regents.”