

## EXTINGUISHMENT AGREEMENT – MINERAL AND DEVELOPMENT RIGHTS

This Extinguishment Agreement – Mineral and Development Rights (“**Agreement**”) is made as of \_\_\_\_\_, 202\_, by and among Mt. Emmons Mining Company, Inc., a Delaware Corporation (“**Grantor**”), 333 North Central Avenue, Phoenix, Arizona 85004, and the Crested Butte Land Trust, a Colorado non-profit corporation, P.O. Box 2224, Crested Butte, CO 81224 (“**Grantee**”). Grantor and Grantee are each referred to as a “**Party**” and collectively as the “**Parties.**”

### Recitals

A. Grantor is the fee owner of approximately 936 acres of real property located in Gunnison County, Colorado, more particularly described in **Exhibit A** and depicted in **Exhibit B** attached hereto and incorporated herein (the “**Grantor’s Property**”). Grantor’s Property is comprised of the \_\_\_\_\_ (651?) acre “**Zone 1**”, and the \_\_\_\_\_ (\_\_\_\_\_) acre “**Zone 2**”, both described on the attached **Exhibit A-1**.

B. To the best of its knowledge, Grantor owns 100% of the subsurface minerals, mineral rights, and mineral estate underlying the Grantor’s Property, including all executive rights to lease, convey, or develop such mineral estate.

C. Grantor and Grantee have entered into a Deed of Conservation Easement recorded on \_\_\_\_\_, 202\_ as Reception No. \_\_\_\_\_, Gunnison County, Colorado (the “**Conservation Easement**”) covering Grantor’s Property which permits Public Access on Zone 1 as described in the Conservation Easement. As a material part of acceptance of the Conservation Easement, Grantee required that the entirety of Grantor’s Property be encumbered by this Agreement. Pursuant to the terms of the Conservation Easement and this Agreement, Grantor has granted to Grantee all of its “**Right to Mine**” and its “**Development Rights.**” (Capitalized terms not defined herein are defined in the Conservation Easement).

D. Grantee supports Grantor’s continuation of mined land reclamation, water treatment and water management activities, including, without limitation, bioremediation, construction of surface and subsurface drainage and diversion structures, grading and recontouring, and general reclamation management activities in its discretion on the Grantor’s Property, subject to and consistent with the applicable Gunnison County Land Use Resolution and the Crested Butte Watershed District Regulations (“**Remediation Activities**”), as provided in the Conservation Easement.

E. Grantor and Grantee wish to ensure the permanent relinquishment and extinguishment of the Right to Mine Grantor’s Property, including all forms of mineral exploration, development, and extraction, whether surface or sub-surface, whether by Grantor or through Grantor, and seek to accomplish the same by this Agreement and the Conservation Easement.

F. Grantor is willing to permanently relinquish, terminate, and extinguish all of its Right to Mine Grantor’s Property, notwithstanding any statute or common law principle that may permit or give precedence to development of the mineral estate over the surface estate. The Right to Mine does not include Grantor’s right to perform Remediation Activities.

G. Grantor is willing to permanently relinquish, terminate, and extinguish all of its Development Rights on Grantor's Property.

H. The terms of this Agreement shall run to the benefit of the real property interest represented by the Conservation Easement and to the holder of the Conservation Easement, the Town of Crested Butte, a Colorado municipal corporation ("**Town**"), and the Board of County Commissioners of the County of Gunnison, Colorado ("**County**") County in perpetuity.

### **Agreement**

For good and valuable consideration, receipt of which is acknowledged, Grantor and Grantee agree as follows:

1. The subject and content of the above recitals are hereby incorporated into this Agreement.

2. The Parties agree that all rights of any person to access, use or develop the surface or subsurface estate of the Grantor's Property for extraction of minerals, including but not limited to oil and gas, geothermal resources, other hydrocarbons, coal, metalliferous minerals, or sand and gravel or any other mineral of any kind or description (collectively the "**Right to Mine**"), are hereby conveyed to Grantee. Subject to the terms of the Conservation Easement and this Agreement, Grantor hereby intentionally and unconditionally waives, relinquishes in favor of Grantee, terminates and extinguishes the entirety of its rights, for itself and any person or entity claiming by, through or under Grantor to develop the minerals or mineral estate of the Grantor's Property (Zone 1 and Zone 2), notwithstanding any statute or common law principle permitting or giving precedence to development of the mineral estate over the surface estate. The Right to Mine does not include Grantor's right to perform Remediation Activities. In the event Grantor at any time becomes the owner or controls any mineral interests that were severed from the Grantor's Property before the Effective Date of this Agreement, then such interests shall be deemed immediately subject to this Agreement and extinguished. The Parties agree that all rights of Grantor and any person or entity claiming by, through and under Grantor to develop the surface or subsurface estate of the Property for extraction of minerals of any kind or description, including but not limited to oil and gas, geothermal resources, other hydrocarbons, coal, metalliferous minerals, or sand and gravel, are hereby released, terminated, and extinguished in perpetuity. The terms of this Agreement shall constitute covenants running with the land in perpetuity with respect to the Grantor's Property, enforceable by Grantee, the Town and County and their successors and assigns.

3. For purposes of this Agreement, "**Development Rights**" are defined as all present or future rights to: (i) construct, place, replace, enlarge, maintain or repair any residential, commercial, industrial or other improvements on the Grantor's Property except for improvements in conjunction with Public Access on Zone 1; (ii) develop the mineral estate of the Grantor's Property, including any and all Right to Mine described above; (iii) divide or subdivide the Grantor's Property, except for separate ownership of Zone 1 and Zone 2; or (iv) receive credit for density for development on or off Grantor's Property. Subject to the terms of the Conservation Easement and this Agreement, Grantor intentionally and unconditionally waives, relinquishes, terminates, and extinguishes the entirety of Grantor's present or future Development Rights. By the Conservation Easement and this Agreement, Grantor conveys to Grantee all Development

Rights associated with the Grantor's Property. Therefore, Grantor does not have the right to use or transfer any Development Rights held by Grantee. The Parties agree that all residential and commercial development rights to the Property are hereby conveyed to Grantee as part of the Development Rights and are hereby released, terminated and extinguished as to Grantor, and may not be used on or transferred off the Property to any other property, adjacent or otherwise. Under no circumstances shall any portion of the Property be used for the purpose of calculating or giving credits, which result in additional density of development on or off the Property. Development Rights do not include Grantor's right to perform Remediation Activities, or Public Access.

4. This release, waiver, relinquishment, termination, and extinguishment is granted for the benefit of the Grantee, and grants to the Grantee, and to (a) the Town, and (b) the County the right to enforce its provisions, separately and together. Grantor agrees that in the event that Grantor violates the covenants contained in this Agreement Grantee, the Town and County, may individually or jointly obtain injunctive relief to prevent and correct any violation of this Agreement. This instrument grants no rights to other third parties and creates no other third-party beneficiaries. Nothing in this Agreement shall be construed to increase or limit any regulatory authority of the Town or County over the lands covered by this Agreement.

5. The terms of this Agreement shall run to the benefit of the real property interest represented by the Conservation Easement, to the holder of the Conservation Easement, and to the Town and County, and each of their successors and assigns, in perpetuity

6. Grantor reserves to itself, and to its successors and assigns, all other rights accruing from its ownership of the Grantor's Property, including the right to engage in or permit or invite others to engage in the Remediation Activities, in Grantor's discretion, and all other uses of the Grantor's Property: (a) that are reserved to Grantor under the terms of the Conservation Easement with respect to Grantor's Property as described in the Conservation Easement; and (b) that are not expressly prohibited or restricted in this Agreement with respect to Grantor's Property.

7. Grantor understands that in reliance upon, and in consideration of this Agreement, Grantee entered into the Conservation Easement which would not have been made or entered into but for said reliance upon this Agreement.

8. The Grantor agrees to cooperate with and support reasonable efforts of the Grantee, the Town, and the County to defend against any claims or causes of action, whether initiated in court or before any local, state or federal administrative agency or body, that seeks to void, nullify, modify, prejudice or limit the terms of this Agreement or the Parties' rights or obligations hereunder, or the rights of the Town and County hereunder.

9. This Agreement may not be modified except in writing signed by the Parties and the Town and County and recorded in the real estate records of Gunnison County, Colorado.

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

**GRANTOR:**

MT. EMMONS MINING COMPANY, INC.,  
a Delaware Corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ARIZONA        )

) ss.

County of \_\_\_\_\_ )

The foregoing Extinguishment Agreement – Mineral Development Rights was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of Mt. Emmons Mining Company, Inc., a Delaware corporation.

Witness my hand and official seal.

[SEAL]

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

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



**EXHIBIT A TO EXTINGUISHMENT AGREEMENT – MINERAL AND  
DEVELOPMENT RIGHTS  
Description of Grantor’s Property**

**EXHIBIT A-1 TO EXTINGUISHMENT AGREEMENT – MINERAL AND  
DEVELOPMENT RIGHTS**

**Description of Zone 1 and Zone 2 of Grantor's Property**

**EXHIBIT B TO EXTINGUISHMENT AGREEMENT – MINERAL AND  
DEVELOPMENT RIGHTS**

**Map of Property and Zones**