

Certificate of Inclusion in the Nationwide CCAA/CCA for Monarch Butterfly on Energy and Transportation Lands

B.1 CI Tracking Number _____

This Certificate of Inclusion (CI) certifies that _____ (Partner), as the owner, leaseholder, or easement holder (or authorized agent thereof) of the property(s) identified in Exhibit 1 (Enrolled Lands) to this CI, hereby agrees that activities conducted on the enrolled lands are subject to the terms and conditions of the attached Enhancement of Survival Permit, Permit No. [insert Permit No.] issued on [insert date] by the U.S. Fish and Wildlife Service (the Service) to the Board of Trustees of the University of Illinois, a body corporate and politic of the State of Illinois, on behalf of the University of Illinois at Chicago (UIC; the Programmatic Administrator) under the authority of Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA), 16 U.S.C. 1531-1544. This Permit was issued through the above-named Candidate Conservation Agreement with Assurances (CCAA) and integrated Candidate Conservation Agreement (CCA) for the monarch butterfly between the Service and UIC (the CCAA/CCA; Exhibit 2). The purpose of which is to support UIC's ongoing and future efforts to promote conservation within energy and transportation lands and promote conservation by industry representatives. The definitions and acronyms set forth in the CCAA/CCA that is attached hereto shall apply to this CI, unless otherwise specified.

This CI documents the Partner's voluntary agreement to enroll specified property in the CCAA/CCA. Through this CI, the Partner voluntarily commits to implement specific conservation actions that will reduce and/or potentially remove threats to the monarch as provided in this CI, the CCAA/CCA and the Permit. Pursuant to this CI and the Permit, incidental take of monarchs as a result of the covered activities identified in the CCAA/CCA on or associated with enrolled lands, in the event the monarch is federally listed as endangered or threatened, is authorized. The Permit further provides the Partner (and their authorized representatives working on their behalf) with assurances regarding the imposition of additional conservation measures and land use restrictions on enrolled lands, as specified in the Permit and the CCAA/CCA, in the event the monarch is federally listed. The incidental take authorization and assurances provided by the Permit are conditioned on the Partner's compliance with the terms and conditions of this CI, the CCAA/CCA and the Permit.

This CI is effective upon execution of this CI by the Partner and UIC. Unless terminated as provided in Section B.7 below, this CI shall continue from its effective date through the duration of the CCAA/CCA and Permit as defined in the CCAA/CCA. In the event of a conflict between the terms and conditions of this CI and the CCAA/CCA or Permit, the terms and conditions of the CCAA/CCA or Permit in effect at the time of enrollment shall govern.

By signing below, the Partner acknowledges that it has read and understands this CI and the CCAA/CCA in effect on the date of the Partner's signature. The Partner further commits to comply with the terms and conditions of the CCAA/CCA and the Permit attached to this CI. Finally, the Partner acknowledges that this CI and the CCAA/CCA may not be sufficient to prevent the listing of the monarch.

B.2 Enrolled Property

B.2.1 Summary of Enrolled Lands

Partner Name and Contact Information:	
Description of Enrolled Properties (or Attach Detailed Map):	
Total Acres of Enrolled Properties (all properties covered by permit):	
Description of Existing Monarch Habitat on Enrolled Lands:	
Duration of Certificate of Inclusion (years from last signature; end date):	
Conservation Measures to be Taken on the Enrolled Lands:	

B.2.2 Partner Affirmation

By executing this CI, the Partner affirms that it is a Property Owner of the enrolled lands as defined by 50 CFR §17.3, which provides that a Property Owner for these purposes is a person or entity with a fee simple, leasehold, or property interest (including owners of water or other natural resources), sufficient to carry out the conservation measures and any other management activities contemplated by this CI, the CCAA/CCA and the Permit, subject to applicable State law, on enrolled, non-Federal land.

B.2.3 Additions to Enrolled Lands

The Partner may seek to enroll additional eligible lands in this CI during the enrollment period as set out in Section 4 (Enrolled Lands) of the CCAA/CCA.

B.2.4 Transfer of Enrolled Lands

If the Partner transfers its property interest in all or a portion of its enrolled lands, it shall notify UIC as described in Section 9.6 (Succession and Transfer) of the CCAA/CCA. Coverage under the Permit for such property will be transferred to the new Property Owner as described in Section 9.8 (Succession and Transfer) of the CCAA/CCA.

B.2.5 Termination of Enrolled Lands or this CI

A Partner may terminate enrollment of a property in this CI, or terminate this CI in its entirety, in accordance with Section 4 (Enrolled Lands) of the CCAA/CCA. The Programmatic Administrator may also terminate enrollment of a property or this CI as provided in the CCAA/CCA. The process and effect of termination of this CI is described in Sections 7 (Obligations of the Parties) and 9 (Duration of Agreement and Permit) of the CCAA/CCA.

B.2.6 Revisions to Exhibit 1.

Exhibit 1 (Partner Application; Summary of Enrolled Lands) may be revised in accordance with the procedures outlined in Section 4 of the CCAA/CCA (Enrolled Lands).

B.3 Participant Agreement to Implement Conservation Measures

The Partner agrees to comply with the requirements of this CI, the CCAA/CCA attached, and the Permit. This agreement includes the Partner's commitment to implement conservation measures on enrolled lands as provided in their application and Section 6 of the CCAA/CCA (Conservation Measures).

The Partner shall also notify and educate all relevant personnel, agents, and contractors about the requirements of this CI and the CCAA/CCA, and take steps necessary to ensure that such personnel, agents, and contractors comply with these requirements in their activities on the enrolled lands.

B.4 National Historic Preservation Act

The Partner must comply with all applicable laws and regulations required to protect cultural or archaeological resources pursuant to Section 106 of the National Historic Preservation Act.

B.5 Participant Compliance

B.5.1 Unpaid Administrative Fees

If the Partner fails to remit an administrative fee in accordance with Section 4 (Enrolled Lands) or Section 17 (Administrative Fees) of the CCAA/CCA the Programmatic Administrator may suspend this CI as to the enrolled lands for which the administrative fee is due until such administrative fee is paid. The Programmatic Administrator will notify the Partner 15 business days after the due date of the administrative fee. If the administrative fee is not paid within 30 business days of receipt of the notice, the Programmatic Administrator will issue a Notice of Noncompliance to the Partner. Upon receipt of the administrative fee, the Programmatic Administrator will issue a Notice of Reinstatement to the Partner.

B.5.2 Compliance

Non-Compliance Notice

A Notice of Noncompliance is a written notification from the Programmatic Administrator and/or the Service to the Partner identifying an alleged failure to implement the terms and conditions of the Agreement, including but not limited to, agreed upon avoidance or minimization measures, conservation measures, compliance reporting, effectiveness monitoring, or to pay fees. In response to an alleged failure to implement a condition of this Agreement, the Programmatic Administrator may either directly contact or provide written notice to a Partner (see Compliance Notice). This notice shall require the Partner to submit, within 30 calendar days of the date of the Compliance Notice or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred with additional information supporting the statement.

The Programmatic Administrator shall notify the relevant Service contact of the potential compliance issue at the time they send a Compliance Notice to the Partner, including any consideration for protecting confidential information (Section 8, Confidentiality). The Programmatic Administrator will determine if further Service coordination is required for resolution.

The Programmatic Administrator shall respond in writing to the Partner's response and either: (a) accept the Partner's response and state that the notice is resolved (a Notice of Resolution stating the initial concern and its resolution along with any subsequent actions taken to resolve the noncompliance), or (b) not accept the Partner's response.

Deficiency Notice

If a Partner fails to respond to a Compliance Notice or the Programmatic Administrator disagrees with the Partner's response, the Programmatic Administrator may issue a written Deficiency Notice, which shall require the Partner to provide, within 30 calendar days of the date of the notice or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred with additional information supporting the statement and a request for discussions.

After coordination with the Advisory Committee, and USFWS if necessary, the Programmatic Administrator shall respond in writing to a Partner's response and either: (a) accept the Partner's response and provide a Notice of Resolution; or (b) not accept the Partner's response.

Notice of Noncompliance

If a Partner fails to respond to a Deficiency Notice or if the Programmatic Administrator and the Partner cannot resolve the issue through discussions, the Programmatic Administrator shall issue a Notice of Noncompliance. Notices of Noncompliance shall require the Partner to submit, within 30 calendar days of receipt of the Notice of Noncompliance or other specified time, a written explanation or statement in response that includes: (a) corrective steps taken by the Partner and results achieved; (b) a schedule and description of corrective steps that will be taken and results expected; or (c) a statement denying that the alleged failure has occurred, additional information supporting the statement and a request for discussions.

The Advisory Committee will make a recommendation to the Programmatic Administrator regarding whether to accept or not accept the Partner's response. The Programmatic Administrator, with input from the Advisory Committee, will make a determination on whether to accept or not accept the Partner's response. The Programmatic Administrator shall respond in writing to the Partner's response and either: (a) accept the Partner's response and state that the notice is resolved (a Notice of Resolution), or (b) not accept the Partner's response. If the Programmatic Administrator does not accept the Partner's response, the Notice of Noncompliance will be considered unresolved and the Partner may be subject to termination as described in Section 9 (Duration of Agreement and Permit).

Advisory Committee and Programmatic Administrator Review

At any time before a response is due to the Programmatic Administrator, a Partner may seek review of any Compliance Notice, Deficiency Notice, Notice of Noncompliance or proposed termination by submitting a written request to the Advisory Committee. The Programmatic Administrator and the Partner each may prepare a statement of position for review by the Advisory Committee or request a face-to-face review. The Advisory Committee shall review statements, information provided in a face-to-face review and other information available to it and issue a recommendation to the Programmatic Administrator, including any recommended corrective action.

The Programmatic Administrator shall review the recommendation of the Advisory Committee, confer with the relevant Service contact, or its designee, and issue its finding and any required corrective action in writing.

The Partner and the Programmatic Administrator shall comply with the findings, and the Programmatic Administrator will issue a written Notice of Resolution once the Partner complies with its findings. If the Partner fails to implement the required corrective action within 30 calendar days of its receipt of the findings, the Programmatic Administrator shall notify the Partner in writing that the Notice of Noncompliance has not been addressed and may either provide notice to USFWS, or terminate the Certificate of Inclusion of the Partner at that time.

All Compliance Notices, Deficiency Notices, and Notices of Noncompliance shall be sent to the following company representatives named in Section 15 of this CI (Contacts). All Compliance Notices, Deficiency

Notices, and Notices of Noncompliance shall concisely identify the conservation measure for the relevant CI that UIC believes the Partner has not implemented. UIC shall notify the relevant Service Ecological Services field office of issuance of notices and the receipt of responses by electronic mail.

B.6 Incidental Take

If the monarch is listed, any incidental take of the monarch that results from the Partner's failure to implement a mandatory avoidance or minimization conservation measures will remain authorized by the Permit so long as a Notice of Resolution relating to the conservation measure at issue is resolved in accordance with the procedures above.

B.7 Termination for Noncompliance

Lands enrolled under this CI may include tens or hundreds of thousands of acres. If a Partner, after Notice of Noncompliance and subsequent response (or lack thereof), still remains in Notice of Noncompliance on lands enrolled under this CI, an appropriate action may be to terminate this CI as it relates to the individual easement(s), lease(s) or parcel(s) of land on which the noncompliance occurred. Depending on the scale or scope of the violations, the failure to resolve three Notices of Noncompliance within a three-year period for lands enrolled in this CI can result in termination of some or all of this CI. The Programmatic Administrator and the Service, however, recognize that termination of this entire CI is a severe and dramatic action limited to unusual circumstances after all efforts to address noncompliance have been exhausted.

The Partner shall be notified in writing by the Programmatic Administrator of the proposed termination by certified or registered mail addressed to the contact name in Section 15 of this CI. This notice shall identify the lands for which this CI will be terminated, the reason(s) for the termination, and inform the Partner of the right to object to the proposed termination. Upon receipt of a notice of proposed termination, the Partner may file written objection to the proposed action within 45 calendar days of the date the Partner received the notice of proposed termination. The objection must state the reasons why the Partner objects to the proposed termination and may include supporting documentation. The Advisory Committee will review the written objection and all documentation, and will issue a recommendation to the Programmatic Administrator on the proposed termination.

The Programmatic Administrator will confer with the relevant the Service CCAA/CCA Coordinator. The Programmatic Administrator will make a decision on the proposed termination within 45 calendar days after the end of the objection period and notify the Partner in writing of its decision and the reasons thereto. The Partner reserves the right to any and all legal remedies, whether at law or in equity, arising from a decision to terminate some or all of this CI.

B.8 Property Access

The Partner agrees to provide access to enrolled lands as provided in Section 7.3 of the CCAA/CCA.

B.9 No Waiver

The Partner, by entering into this CI, does not concede its agreement with, or endorsement of, any or all of the underlying studies and conclusions in the CCAA/CCA and/or SSA. Further, the Partner does not waive any legal rights or remedies that may exist outside of this CI. The Partner is also not responsible for work being accomplished by the Service, the Programmatic Administrator or any third parties using the Partners' contributed funds.

B.10 Release

If at any time any administrative or legal challenge to the CCAA/CCA prevents the implementation of this CI, the Partner shall be excused from its performance and shall release the signatories of the CCAA/CCA and CI from any legal claims of the Partner's related to this CI and CCAA/CCA. If at any time any administrative

or legal challenge to the CCAA/CCA prevents the implementation of this CI, the Programmatic Administrator agrees to release the Partner from any legal claims related to this CI and CCAA/CCA. Partners' obligation to make payments of administrative fees as described in Section 17 of the CCAA/CCA (Administrative Fees) shall be suspended if any administrative or judicial challenge prevents the implementation of this CCAA/CCA or its CIs. If a Partner voluntarily terminates the Agreement, or the Partner is terminated for nonperformance or noncompliance, all funds paid by that Partner will be retained by the Programmatic Administrator for use in CCAA/CCA administration or monarch conservation. In the event of an external termination of the Agreement (e.g. transfer of the Agreement, or lack of conservation need), the Programmatic Administrator will work with Partners to determine the appropriate refund amounts for any pre-paid annual administrative fees beyond the final year of the Agreement, or Programmatic Administrator involvement.

B.11 Amendment

As described in Section 10 of the CCAA/CCA (Adaptive Management), the effectiveness of the conservation measures in the CCAA/CCA will be reviewed by the Programmatic Administrator, the Service, and Partners periodically over the life of the CCAA/CCA. However, changes to the CCAA/CCA in effect at the time after the Partner executes this CI may only be applied to the Partner upon its written consent. This CI, except for Exhibit 2 (CCA/CCA), may be amended with the written consent of each of the Parties hereto. Exhibit 1 may be revised in accordance with the procedures outlined in Section 4 of the CCAA/CCA (Enrolled Lands). The Parties agree to process requests for amendments in a timely manner. This CI will only be amended upon written agreement of both the Programmatic Administrator and the Partner. This CI may also be amended to accommodate changes to applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the Service's permit regulations at 50 CFR § 13 and 50 CFR § 17. The proposer of the amendment shall provide a statement describing the proposed amendment and the reasons for it.

B.12 Multiple Originals

This CI may be executed in any number of multiple originals. A complete original of this CI shall be maintained in the records of each of the Parties hereto.

B.13 Reporting Requirements

The Partner will comply with the reporting requirements outlined in Section 14 of the CCAA/CCA (Monitoring Provisions).

B.14 Confidentiality

The Parties recognize that energy and transportation infrastructure information is confidential and sensitive business information held and not routinely disclosed and may be exempt from disclosure under the Federal and/or Illinois Freedom of Information Act (FOIA). Such confidential, proprietary, and sensitive business information includes but is not limited to the following:

- Any maps depicting lands enrolled by an individual Partner that specifically identify the Partner, or specific location of lands;
- Information describing critical infrastructure information, or critical energy/electric infrastructure information designations;
- Identifying information about an individual Partner's acreage and its specific location or position; or
- Any information that contains proprietary business information as identified and designated by the Partner supplying that information.

Accordingly, the Programmatic Administrator shall limit access to the foregoing information to only employees or agents of the Programmatic Administrator, and the Partner that provided the information, unless otherwise authorized in writing by the Partner, or as may be required by law, court order or administrative action. The Programmatic Administrator shall only allow such access to the information via methods allowed by the applicable Partner(s) and solely for the purpose of allowing the relevant and particular information for monitoring and reporting, as described herein. The Programmatic Administrator will not authorize anyone to download, possess, or distribute the information, unless otherwise authorized in writing by the Partner.

The Service and the Programmatic Administrator shall take all reasonable steps to maintain confidentiality under the relevant laws, as well as the Service and the Programmatic Administrator, and their employees and/or agents. Neither the Service nor the Programmatic Administrator are responsible for any information ultimately subject to disclosure under the relevant public open record laws.

For disputes and resolutions being reviewed by the Advisory Committee, the Programmatic Administrator will take similar confidentiality measures when considering the sharing of information with Partners acting within the capacity of the Advisory Committee, and involved with reviews or compliance considerations being considered. The Programmatic Administrator shall only allow such access to the information via methods allowed by the applicable Partner(s) and solely for the purpose of allowing the relevant and particular information for the specified request provided in writing.

If the Service, or the Programmatic Administrator, receives a request under the Federal FOIA, or UIC receives a request under the Illinois FOIA for information which a Partner has identified as potentially confidential in this section, and has responsive documents in its possession containing such information, and as time allows, the Service or the Programmatic Administrator will consult with the Partner that submitted the information and provide an opportunity for the Partner to object to disclosure prior to determining if the information is exempt from disclosure pursuant to the Freedom of Information Act, pursuant to applicable exemptions in the Federal or Illinois FOIA Acts. Additional information regarding the Service's process for responding to Freedom of Information Act requests for possibly confidential information is set out at 43 CFR 2.26-2.36 (2013).

B.15 Contacts

Any notice permitted or required by this CI, the CCAA/CCA or the Permit shall be transmitted within any time limits described in this CI, the CCAA/CCA or the Permit to the persons set forth below. Notice may be provided electronically (via email) or in writing unless the form of notice is otherwise identified in this CI, the CCAA/CCA or the Permit. Any notice provided by electronic mail is deemed received upon the sender's receipt of an electronic mail from the intended recipient confirming delivery. Lack of receipt within five (5) business days may result in follow up via phone call, or a duplicate notice provided in writing. Notice in writing shall be deemed given five (5) business days after deposit in the United States mail, sent certified and postage prepaid, and return receipt requested. All notices and correspondence will be addressed to the contacts listed below. Should either party designate other contacts for day-to-day communications, that notification will be sent to the Programmatic Administrator in writing similar to other notices outlined here:

Partner:

Contact Name

Title

Address:

Telephone:

Fax:

Email:

UIC/Permit Holder Representative:

Contact Name

Title

Address:

Telephone:

Fax:

Email:

B.16 Signatures

IN WITNESS WHEREOF THE PARTIES HERETO have executed this Certificate of Inclusion to be in effect on the date of the last signature below.

Partner and Affiliation

Date

Programmatic Administrator/Permit Holder Representative

Date