

Prepared by:

Name:

Address:

Telephone:

Return to:

Name:

Address:

Tax Parcel(s):

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT (this "Grant") dated as of _____ (the "Easement Date") is by and between _____ ("the undersigned Owner or Owners") and _____ (the "Holder").

Article I. Background

1.01 Property

The undersigned Owner or Owners are the sole owners in fee simple of the Property described in Exhibit "A" (the "Property"). The Property is also described as:

Street Address:

Municipality:

County:

Parcel Identifier:

State: Pennsylvania

Acreage:

1.02 Conservation Plan

Attached as Exhibit "B" is a survey or other graphic depiction of the Property (the "Conservation Plan") showing, among other details, the location of one or more of the following areas – the Highest Protection Area, the Standard Protection Area and the Minimal Protection Area.

1.03 Conservation Objectives

By this Grant, the undersigned Owner or Owners impose a conservation servitude (the "Conservation Easement") on the Property that provides different levels of protection for the areas shown on the Conservation Plan so as to achieve the goals and resource protection objectives (collectively, the "Conservation Objectives") for the Property set forth below:

(a) Resource Protection Objectives

- (i) **Water Resources.** To maintain and improve the quality of water resources, both surface and groundwater, within, around and downstream of the Property.
- (ii) **Forest, Woodland and Other Vegetative Resources.** To perpetuate and foster the growth of a healthy and unfragmented forest or woodland; to maintain a continuous canopy of vegetation with multi-tiered understory of trees, shrubs, wildflowers and grasses; to support healthy ecosystem processes; and to trap air pollution particulates for healthier air and sequester carbon in trees and soil in order to mitigate rising atmospheric carbon levels.
- (iii) **Wildlife Resources.** To maintain and improve the quality of wildlife habitat; to protect breeding sites; to promote biodiversity and Native Species; to preserve large intact areas of wildlife habitat, connect patches of wildlife habitat and secure migration corridors. Large habitat patches typically support greater biodiversity than small patches; migration corridors enable wildlife to move to meet nutritional and reproductive needs and facilitate the migration of species in response to changes in environmental conditions.

- (iv) **Scenic Resources.** To preserve the relationship of scenic resources within the Property to natural and scenic resources in its surrounds and to protect scenic vistas visible from public rights-of-way and other public access points in the vicinity of the Property.
- (v) **Sustainable Land Uses.** To ensure that Agriculture, Forestry, and other uses, to the extent that they are permitted, are conducted in a manner that will neither diminish the biological integrity of the Property nor deplete natural resources over time nor lead to an irreversible disruption of ecosystems and associated processes. Agricultural and Forestry activities are regulated so as to protect soils of high productivity; to ensure future availability for Sustainable uses; and to minimize adverse effects of Agricultural and Forestry uses on water resources described in the Conservation Objectives.
- (vi) **Compatible Land Use and Development.** Certain areas have been sited within the Property to accommodate existing and future development taking into account the entirety of the natural potential of the Property as well as its scenic resources.

(b) Goals

- (i) **Highest Protection Area.** To protect natural resources within the Highest Protection Area so as to keep them in an undisturbed state except as required to promote and maintain a diverse community of predominantly Native Species.
- (ii) **Standard Protection Area.** To promote good stewardship of the Standard Protection Area so that its soil and other natural resources will always be able to support Sustainable Agriculture or Sustainable Forestry.
- (iii) **Minimal Protection Area.** To promote compatible land use and development within the Minimal Protection Area so that it will be available for a wide variety of activities, uses and Additional Improvements subject to the minimal constraints necessary to achieve Conservation Objectives outside the Minimal Protection Area.

1.04 Baseline Documentation

As of the Easement Date, the undersigned Owner or Owners and Holder have signed for identification purposes the report (the “Baseline Documentation”), to be kept on file at the principal office of Holder, that contains an original, full-size version of the Conservation Plan and other information sufficient to identify on the ground the protection areas identified in this Article; that describes Existing Improvements; that identifies the conservation resources of the Property described in the Conservation Objectives; and that includes, among other information, photographs depicting existing conditions of the Property as of the Easement Date.

1.05 Structure of Grant

In Articles II, III and IV, the undersigned Owner or Owners impose restrictive covenants on the Property in support of the Conservation Objectives. Then, in Article V, they vest in Holder a number of rights for the purpose of advancing the Conservation Objectives. Article VI addresses potential violations and remedies. Article VII addresses miscellaneous other matters. Initially capitalized terms not defined in this Article I are defined in Article VIII.

1.06 Federal Tax Items

(a) Qualified Conservation Contribution

The Conservation Easement has been donated in whole or in part by the undersigned Owner or Owners. The donation of the Conservation Easement by this Grant is intended to qualify as a charitable donation of a partial interest in real estate (as defined under §170(f)(3)(B)(iii) of the Code) to a qualified organization (a “Qualified Organization”) as defined in §1.170(A-14)(c)(1) of the Regulations. If the Conservation Easement is transferred to any Person, that Person must commit to hold the Conservation Easement exclusively for conservation purposes as defined in the Regulations.

(b) Public Benefit

The undersigned Owner or Owners have granted the Conservation Easement to provide a significant public benefit (as defined in §1.170A-14(d)(4) of the Regulations). In addition to the public benefits described in the Conservation Objectives, the Baseline Documentation identifies public policy statements and other factual information supporting the significant public benefit of the Conservation Easement.

(c) Mineral Interests

No Person has retained a qualified mineral interest in the Property of a nature that would disqualify the Conservation Easement for purposes of §1.170A-14(g)(4) of the Regulations. From and after the

Easement Date, the grant of any such interest is prohibited and Holder has the right to prohibit the exercise of any such right or interest if granted in violation of this provision.

(d) Notice Required under Regulations

To the extent required for compliance with §1.170A-14(g)(5)(ii) of the Regulations, and only to the extent such activity is not otherwise subject to Review under this Grant, Owners agree to notify Holder before exercising any reserved right that may have an adverse impact on the conservation interests associated with the Property.

(e) Property Right

In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Owner or Owners agree that the grant of this Conservation Easement gives rise to a property right, immediately vested in the Holder, that entitles the Holder to compensation upon extinguishment of the easement. The fair market value of the property right is to be determined in accordance with the Regulations; i.e., it is at least equal to the proportionate value that the Conservation Easement as of the Easement Date bears to the value of the Property as a whole as of the Easement Date (the "Proportionate Value"). If the Proportionate Value exceeds the compensation otherwise payable to Holder under Article VI, Holder is entitled to payment of the Proportionate Value. Holder must use any funds received on account of the Proportionate Value for conservation purposes (as that phrase is defined in the Regulations).

(f) Qualification under §2031(c) of the Code

To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such activity is not otherwise prohibited or limited under this Grant, Owners agree that commercial recreational uses are not permitted within the Property.

(g) Acknowledgment of Donation

Except for such monetary consideration (if any) as is set forth in this Article, Holder acknowledges that no goods or services were received in consideration of this Grant.

(h) No Representation of Tax Benefits

The undersigned Owner or Owners represent, warrant and covenant to Holder that:

- (i) The undersigned Owner or Owners have not relied upon any information or analyses furnished by Holder with respect to either the availability, amount or effect of any deduction, credit or other benefit to Owners under Applicable Law; or the value of the Conservation Easement or the Property.
- (ii) The undersigned Owner or Owners have relied solely upon their own judgment and/or professional advice furnished by the appraiser and legal, financial and accounting professionals engaged by the undersigned Owner or Owners. If any Person providing services in connection with this Grant or the Property was recommended by Holder, the undersigned Owner or Owners acknowledge that Holder is not responsible in any way for the performance of services by these Persons.
- (iii) This Grant is not conditioned upon the availability or amount of any deduction, credit or other benefit under Applicable Law.

1.07 Beneficiaries

This Grant does not confer any rights or remedies upon any Person other than Owners, Holder, and Persons (the "Beneficiaries"), if any, specifically named in this Grant. No other Persons are vested with any rights, whether arising under this Grant or otherwise under Applicable Law. No Beneficiary is identified in this Grant.

1.08 Consideration

The undersigned Owner or Owners acknowledge receipt, as of the Easement Date, of the sum of \$1.00 in consideration of this Grant.

Article II. Transfer; Subdivision

2.01 Transfer

(a) Notice Required

Not less than thirty (30) days prior to transfer of the Property or any Lot, Owners must notify Holder of the name(s) and address for notices of the Persons who will become Owners following the transfer.

(b) Prior to Transfer

Owners authorize Holder to (i) contact the Persons to whom the Property or Lot will be transferred, and other Persons representing Owners or the prospective transferees, to discuss with them this Grant and, if applicable, other pertinent documents; and (ii) enter the Property to assess compliance with this Grant.

(c) Ending Continuing Liability

Owners prior to transfer are liable, on a joint and several basis with the Owners following the transfer, for the correction of violations and discharge of other obligations of Owners under this Grant. This provision continues to apply until Holder has been notified of the transfer, inspects the Property, and reports no violations observed during such inspection.

2.02 Prohibitions

No transfer of a Lot independent of the remainder of the Property; no change in the boundary of any Lot; and no other Subdivision is permitted, except as set forth below.

2.03 Permitted Changes

The following changes are permitted:

(a) Lots within Property

If the Property contains more than one Lot, Subdivision to (i) merge two or more Lots into one; or (ii) subject to Review, reconfigure any one or more of the boundaries of such Lots except a boundary of the Property as described in Exhibit "A".

(b) Transfer to Qualified Organization

Subject to Review, creation of a Lot for transfer to a Qualified Organization for park, nature preserve, public trail or other conservation purposes approved by Holder after Review.

(c) Transfer of Rights of Possession or Use

Subject to Review, transfer of possession or use (but not ownership) of one or more portions of the Property, including subsurface portions of the Property, for purposes permitted under, and subject to compliance with, the terms of this Grant. Leases of space within Improvements are not subject to Review.

2.04 Requirements

(a) Establishment of Lots; Allocations

Prior to transfer of a Lot following a Subdivision, Owners must (i) furnish Holder with the plan of Subdivision approved under Applicable Law and legal description of the each Lot created or reconfigured by the Subdivision; (ii) mark the boundaries of each Lot with permanent markers; and (iii) allocate in a document recorded in the Public Records those limitations applicable to more than one Lot under this Grant. This information will become part of the Baseline Documentation incorporated into this Grant.

(b) Amendment

Holder may require Owners to execute an Amendment of this Grant to reflect any change to the description of the Property set forth in Exhibit "A" or any other changes and allocations resulting from Subdivision that are not established to the reasonable satisfaction of Holder by recordation in the Public Records of the plan of Subdivision approved under Applicable Law.

Article III. Improvements

3.01 Prohibition

Improvements within the Property are prohibited except as permitted below in this Article.

3.02 Permitted Within Highest Protection Area

The following Improvements are permitted within the Highest Protection Area:

(a) Existing Improvements

Any Existing Improvement may be maintained, repaired and replaced in its existing location. Existing Improvements may be expanded or relocated if the expanded or relocated Improvement complies with requirements applicable to Additional Improvements of the same type.

(b) Existing Agreements

Improvements that Owners are required to allow under Existing Agreements are permitted.

(c) Additional Improvements

The following Additional Improvements are permitted:

- (i) Fences, walls and gates, not to exceed four (4) feet in Height or such greater Height as is approved by Holder after Review.
- (ii) Regulatory Signs.
- (iii) Habitat enhancement devices such as birdhouses and bat houses.
- (iv) Trails covered (if at all) by wood chips, gravel, or other highly porous surface.
- (v) Subject to Review, footbridges, stream crossing structures and stream access structures.
- (vi) Subject to Review, Access Drives and Utility Improvements to service Improvements within the Property but only if there is no other reasonably feasible means to provide access and utility services to the Property.
- (vii) Subject to Review, Extraction Improvements and Improvements for generating and transmitting Renewable Energy but only if located wholly beneath the surface at a depth at which there can be no impairment of water or other resources described in the Conservation Objectives. No Access Drives to service any such Improvements are permitted.

3.03 Permitted Within Standard Protection Area

The following Improvements are permitted within the Standard Protection Area:

(a) Permitted under Preceding Sections

Any Improvement permitted under a preceding section of this Article is permitted.

(b) Additional Improvements

The following Additional Improvements are permitted:

- (i) Agricultural Improvements.
- (ii) Site Improvements reasonably required for activities and uses permitted within the Standard Protection Area.
- (iii) Subject to Review, Site Improvements servicing other areas of the Property, if not reasonably feasible to install entirely within Minimal Protection Area.
- (iv) Subject to Review, Improvements for generating and transmitting Renewable Energy that Holder, without any obligation to do so, determines are consistent with maintenance or attainment of Conservation Objectives.

(c) Limitations on Additional Improvements

Additional Improvements permitted within the Standard Protection Area are further limited as follows:

- (i) The Height of Improvements must not exceed thirty-five (35) feet except for, subject to Review, silos and Improvements for generating Renewable Energy.
- (ii) Fences remain limited as in the Highest Protection Area.
- (iii) Impervious Coverage must not exceed a limit of 500 square feet per roofed Improvement. Impervious Coverage must not exceed a limit of 1500 square feet in the aggregate for all Improvements within the Standard Protection Area. The limitation on aggregate Impervious Coverage excludes Impervious Coverage associated with ponds and Access Drives.
- (iv) Access Drives are limited to a driving surface not to exceed fourteen (14) feet in width and are further limited, in the aggregate, to 500 feet in length.
- (v) Ponds are limited, in the aggregate, to 1500 square feet of Impervious Coverage.
- (vi) In addition to Regulatory Signs, signs are limited to a maximum of eight (8) square feet per sign and twenty-four (24) square feet in the aggregate for all signs within the Property.
- (vii) Utility Improvements must be underground or, subject to Review, may be aboveground where not reasonably feasible to be installed underground.
- (viii) The following Improvements are not permitted unless Holder, without any obligation to do so, approves after Review: (A) exterior storage tanks for petroleum or other hazardous or toxic substances (other than reasonable amounts of fuel for activities and uses within the Property

permitted under this Grant); and (B) Site Improvements servicing activities, uses or Improvements not within the Property.

- (ix) Improvements in connection with recreational and open-space activities and uses are limited to Site Improvements not exceeding nine (9) feet in Height and 500 square feet of Impervious Coverage in the aggregate.

3.04 Permitted Within Minimal Protection Area

The following Improvements are permitted within Minimal Protection Area:

(a) Permitted under Preceding Sections

Any Improvement permitted under a preceding section of this Article is permitted.

(b) Additional Improvements

The following Additional Improvements are permitted:

- (i) Residential Improvements.
- (ii) Site Improvements servicing activities, uses or Improvements permitted within the Property. Signs, fences, storage tanks and other Site Improvements remain limited as set forth for the Standard Protection Area.

(c) Limitations on Additional Improvements

Additional Improvements permitted within the Minimal Protection Area are further limited as follows:

- (i) Not more than one (1) Improvement (whether an Existing Improvement or Additional Improvement) may contain Dwelling Units (if any) permitted under Article IV.
- (ii) Additional Improvements are subject to a Height limitation of thirty-five (35) feet. Subject to Review, Improvements for generating Renewable Energy may exceed this Height limitation.

Article IV. Activities; Uses; Disturbance of Resources

4.01 Prohibition

Activities and uses are limited to those permitted below in this Article and provided in any case that the intensity or frequency of the activity or use does not materially and adversely affect maintenance or attainment of Conservation Objectives.

4.02 Density Issues under Applicable Law

(a) Promoting Development outside the Property

Neither the Property nor this Grant may be used under Applicable Law to increase density or intensity of use or otherwise promote the development of other lands outside the Property.

(b) Transferable Development Rights

Owners may not transfer for use outside the Property (whether or not for compensation) any development rights allocated to the Property under Applicable Law.

4.03 Permitted Within Highest Protection Area

The following activities and uses are permitted within the Highest Protection Area:

(a) Existing Agreements

Activities, uses and Construction that Owners are required to allow under Existing Agreements.

(b) Disturbance of Resources

- (i) Cutting trees, Construction or other disturbance of resources, including removal of Invasive Species, to the extent reasonably prudent to remove, mitigate or warn against an unreasonable risk of harm to Persons, property or health of Native Species on or about the Property. Owners must take such steps as are reasonable under the circumstances to consult with Holder prior to taking actions that, but for this provision, would not be permitted or would be permitted only after Review.
- (ii) Planting a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.
- (iii) Removal and disturbance of soil, rock and vegetative resources to the extent reasonably necessary to accommodate Construction of Improvements within the Highest Protection Area with restoration as

soon as reasonably feasible by replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials in accordance with Best Management Practices.

- (iv) Vehicular use in the case of emergency and, subject to applicable limitations (if any), in connection with activities or uses permitted within the Highest Protection Area.
- (v) Except within Wet Areas, cutting or removing trees, standing or fallen, but only if the aggregate inside bark diameter of stumps (one foot above ground on the uphill side) does not exceed 200 inches per year and only for use within the Property.
- (vi) Subject to Review, removal of vegetation to accommodate replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials.
- (vii) Subject to Review, extraction of natural gas (regardless of source) or oil, and injection or release of water and other substances to facilitate such extraction, but only at subterranean depths at which there can be no impairment of water or other resources described in the Conservation Objectives. No surface activities or uses, including Construction activities, incident to such extraction are permitted.
- (viii) Generation of Renewable Energy and transmission of such energy if and to the extent Improvements for that purpose are permitted under Article III.
- (ix) Other resource management activities that Holder, without any obligation to do so, determines are consistent with maintenance or attainment of Conservation Objectives and are conducted in accordance with the Resource Management Plan approved for that activity after Review.

(c) Release and Disposal

- (i) Application of manure and plant material, both well composted, and, subject to compliance with manufacturer's recommendations, other substances to promote the health and growth of vegetation. (These permitted substances do not include sludge, biosolids, septic system effluent and related substances.)
- (ii) Piling of brush and other vegetation to the extent reasonably necessary to accommodate activities or uses permitted within the Highest Protection Area.

(d) Other Activities

Activities that do not require Improvements other than trails and do not materially and adversely affect maintenance or attainment of Conservation Objectives such as the following: (i) walking, horseback riding on trails, cross-country skiing, bird watching, nature study, fishing and hunting; and (ii) educational or scientific activities consistent with and in furtherance of the Conservation Objectives. Vehicular use is not permitted in connection with the activities permitted under this subsection, unless Holder, without any obligation to do so, approves the use after Review.

4.04 Permitted Within Standard Protection Area

The following activities and uses are permitted within the Standard Protection Area so long as no Invasive Species are introduced:

(a) Permitted under Preceding Sections

Activities and uses permitted under preceding sections of this Article are permitted within the Standard Protection Area.

(b) Agricultural Uses

Sustainable Agricultural uses and activities that maintain continuous vegetative cover and, if conducted in accordance with a Soil Conservation Plan furnished to Holder, Sustainable Agricultural uses that do not maintain continuous vegetative cover. In either case, the limitations set forth below apply:

- (i) Within Wet Areas, grazing is permitted only if Holder approves after Review.
- (ii) Within Steep Slope Areas, the Soil Conservation Plan is subject to Review by Holder to determine that measures have been included to minimize adverse effects on natural resources such as a conservation tillage system, contour farming or cross slope farming.
- (iii) Agricultural uses that involve removal of soil from the Property (such as sod farming and ball-and-burlap nursery uses) are permitted only if conducted in accordance with a Resource Management Plan approved by Holder after Review that provides for, among other features, a soil replenishment program that will qualify the activity as a Sustainable Agricultural use.

- (iv) Woodland Areas may not be used for or converted to Agricultural uses unless Holder, without any obligation to do so, approves after Review.
- (c) **Forestry Uses**
Sustainable Forestry in accordance with a Resource Management Plan approved after Review.
- (d) **Other Disturbance of Resources**
 - (i) Subject to Review, removal or impoundment of water for activities and uses permitted within the Property but not for sale or transfer outside the Property.
 - (ii) Removal of vegetation and other Construction activities reasonably required to accommodate Improvements permitted within the Standard Protection Area.
 - (iii) Mowing, planting and maintenance of lawn, garden and landscaped areas.
- (e) **Release and Disposal**
 - (i) Piling and composting of biodegradable materials originating from the Property in furtherance of Agricultural Uses within the Property permitted under this Article. Manure piles must be located so as not to create run-off into Wet Areas.
 - (ii) Subject to Review, disposal of sanitary sewage effluent from Improvements permitted within the Property if not reasonably feasible to confine such disposal to Minimal Protection Area.
- (f) **Other Activities**
Recreational and open-space activities and uses that (i) do not require Improvements other than those permitted within the Standard Protection Area; (ii) do not materially and adversely affect scenic views and other values described in the Conservation Objectives; and (iii) do not require motorized vehicular use other than for resource management purposes.

4.05 Permitted Within Minimal Protection Area

The following activities and uses are permitted within the Minimal Protection Area:

- (a) **Permitted under Preceding Sections**
Activities and uses permitted under preceding sections of this Article are permitted within the Minimal Protection Area.
- (b) **Disturbance of Resources**
Disturbance of resources within the Minimal Protection Area is permitted for purposes reasonably related to activities or uses permitted within the Minimal Protection Area. Introduction of Invasive Species remains prohibited.
- (c) **Release and Disposal**
 - (i) Disposal of sanitary sewage effluent from Improvements permitted within the Property.
 - (ii) Other piling of materials and non-containerized disposal of substances and materials but only if such disposal is permitted under Applicable Law; does not directly or indirectly create run-off or leaching outside the Minimal Protection Area; and does not adversely affect Conservation Objectives applicable to the Minimal Protection Area including those pertaining to scenic views.
- (d) **Residential and Other Uses**
 - (i) Residential use is permitted but limited to not more than one (1) Dwelling Unit.
 - (ii) Any occupation, activity or use is permitted if wholly contained within an enclosed Residential or Agricultural Improvement. The phrase “wholly contained” means that neither the primary activity or use or any accessory uses such as parking or signage, are visible or discernable outside the Improvement; however, subject to Review, exterior vehicular parking and signage accessory to such uses may be permitted by Holder.

Article V. Rights and Duties of Holder and Beneficiaries

5.01 Grant to Holder

(a) Grant in Perpetuity

By signing this Grant and unconditionally delivering it to Holder, the undersigned Owner or Owners, intending to be legally bound, grant and convey to Holder a Conservation Easement over the Property in perpetuity for the purpose of advancing the Conservation Objectives and administering and enforcing the restrictions and limitations set forth in Articles II, III, and IV in furtherance of the Conservation Objectives.

(b) Superior to all Liens

The undersigned Owner or Owners warrant to Holder that the Property is, as of the Easement Date, free and clear of all Liens or, if it is not, that Owners have obtained and recorded in the Public Records the legally binding subordination of any Liens affecting the Property as of the Easement Date.

5.02 Rights and Duties of Holder

The items set forth below are both rights and duties vested in Holder by this Grant:

(a) Enforcement

To enter the Property to investigate a suspected, alleged or threatened violation and, if found, to enforce the terms of this Grant by exercising Holder's remedies in Article VI.

(b) Inspection

To enter and inspect the Property for compliance with the requirements of this Grant upon reasonable notice, in a reasonable manner and at reasonable times.

(c) Review

To exercise rights of Review in accordance with the requirements of this Article.

(d) Interpretation

To interpret the terms of this Grant and, at the request of Owners, furnish Holder's explanation of the application of such terms to then-existing, proposed or reasonably foreseeable conditions within the Property.

5.03 Other Rights of Holder

The items set forth below are also rights vested in Holder by this Grant; however, Holder, in its discretion, may or may not exercise them:

(a) Amendment

To enter into an Amendment with Owners if Holder determines that the Amendment is consistent with and in furtherance of the Conservation Objectives; will not result in any private benefit prohibited under the Code; and otherwise conforms to Holder's policy with respect to Amendments.

(b) Signs

To install one or more signs within the Property identifying the interest of Holder or one or more Beneficiaries in the Conservation Easement. Any signs installed by Holder do not reduce the number or size of signs permitted to Owners under Article III. Signs are to be of the customary size installed by Holder or Beneficiary, as the case may be, and must be installed in locations readable from the public right-of-way and otherwise reasonably acceptable to Owners.

(c) Proceedings

To assert a claim, defend or intervene in, or appeal, any proceeding under Applicable Law that (i) pertains to the impairment of Conservation Objectives; or (ii) may result in a transfer, Improvement or use that violates the terms of this Grant.

5.04 Review

The following provisions are incorporated into any provision of this Grant that is subject to Review:

(a) Notice to Holder

At least thirty (30) days before Owners begin or allow any Construction, activity or use that is subject to Review, Owners must notify Holder of the change including with the notice such information as is reasonably sufficient to comply with Review Requirements and otherwise describe the change and its potential impact on natural resources within the Property.

(b) Notice to Owners

Within thirty (30) days after receipt of Owners' notice, Holder must notify Owners of Holder's determination to (i) accept Owners' proposal in whole or in part; (ii) reject Owners' proposal in whole or in part; (iii) accept Owners' proposal conditioned upon compliance with conditions imposed by Holder; or (iv) reject Owners' notice for insufficiency of information on which to base a determination. If Holder gives conditional acceptance under clause (iii), commencement of the proposed Improvement, activity, use or Construction constitutes acceptance by Owners of all conditions set forth in Holder's notice.

(c) Failure to Notify

If Holder fails to notify Owners as required in the preceding subsection, the proposal set forth in Owners' notice is deemed approved.

(d) Standard of Review

- (i) The phrase "unless Holder, without any obligation to do so," in relation to an approval or determination by Holder, means that, in that particular case, Holder's approval is wholly discretionary and may be given or withheld for any reason or no reason.
- (ii) In all other cases, Holder's approval is not to be unreasonably withheld. It is not unreasonable for Holder to disapprove a proposal that may adversely affect natural resources described in the Conservation Objectives or that is otherwise inconsistent with maintenance or attainment of Conservation Objectives.

5.05 Reimbursement

Owners must reimburse Holder for the costs and expenses of Holder reasonably incurred in the course of performing its duties with respect to this Grant other than monitoring in the ordinary course. These costs and expenses include the allocated costs of employees of Holder.

Article VI. Violation; Remedies

6.01 Breach of Duty

If Holder fails to enforce the terms of this Grant, or ceases to qualify as a Qualified Organization, then the Conservation Easement may be transferred to another Qualified Organization by a court of competent jurisdiction.

6.02 Violation

If Holder determines that the terms of this Grant are being or have been violated or that a violation is threatened or imminent then the provisions of this section will apply:

(a) Notice

Holder must notify Owners of the violation. Holder's notice may include its recommendations of measures to be taken by Owners to cure the violation and restore features of the Property damaged or altered as a result of the violation.

(b) Opportunity to Cure

Owners' cure period expires thirty (30) days after the date of Holder's notice to Owners subject to extension for the time reasonably necessary to cure but only if all of the following conditions are satisfied:

- (i) Owners cease the activity constituting the violation promptly upon receipt of Holder's notice;
- (ii) Owners and Holder agree, within the initial thirty (30) day period, upon the measures Owners will take to cure the violation;
- (iii) Owners commence to cure within the initial thirty (30) day period; and
- (iv) Owners continue thereafter to use best efforts and due diligence to complete the agreed upon cure.

(c) Imminent Harm

No notice or cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to any natural resource or other feature of the Property described in the Conservation Objectives.

6.03 Remedies

Upon expiration of the cure period (if any) described in the preceding section, Holder may do any one or more of the following:

(a) Injunctive Relief

Seek injunctive relief to specifically enforce the terms of this Grant; to restrain present or future violations of the terms of this Grant; and/or to compel restoration of resources destroyed or altered as a result of the violation.

(b) Civil Action

Recover from Owners or other Persons responsible for the violation all sums owing to Holder under applicable provisions of this Grant together with interest thereon from the date due at the Default Rate. These monetary obligations include, among others, Losses and Litigation Expenses.

(c) Self-Help

Enter the Property to prevent or mitigate further damage to or alteration of natural resources of the Property identified in the Conservation Objectives.

6.04 Modification or Termination

If the Conservation Easement is or is about to be modified or terminated by exercise of the power of eminent domain (condemnation) or adjudication of a court of competent jurisdiction sought by a Person other than Holder the following provisions apply:

(a) Compensatory Damages

Holder is entitled to collect from the Person seeking the modification or termination, compensatory damages in an amount equal to the increase in Market Value of the Property resulting from the modification or termination plus reimbursement of Litigation Expenses as if a violation had occurred.

(b) Restitution

Holder is entitled to recover from the Person seeking the modification or termination, (i) restitution of amounts paid for this Grant (if any) and any other sums invested in the Property for the benefit of the public as a result of rights vested by this Grant plus (ii) reimbursement of Litigation Expenses as if a violation had occurred.

6.05 Remedies Cumulative

The description of Holder's remedies in this Article does not preclude Holder from exercising any other right or remedy that may at any time be available to Holder under this Article or Applicable Law. If Holder chooses to exercise one remedy, Holder may nevertheless choose to exercise any one or more of the other rights or remedies available to Holder at the same time or at any other time.

6.06 No Waiver

If Holder does not exercise any right or remedy when it is available to Holder, that is not to be interpreted as a waiver of any non-compliance with the terms of this Grant or a waiver of Holder's rights to exercise its rights or remedies at another time.

6.07 No Fault of Owners

Holder will waive its right to reimbursement under this Article as to Owners (but not other Persons who may be responsible for the violation) if Holder is reasonably satisfied that the violation was not the fault of Owners and could not have been anticipated or prevented by Owners by reasonable means.

6.08 Multiple Owners; Multiple Lots

If different Owners own Lots within the Property, only the Owners of the Lot in violation will be held responsible for the violation.

6.09 Multiple Owners; Single Lot

If more than one Owner owns the Lot in violation of the terms of this Grant, the Owners of the Lot in violation are jointly and severally liable for the violation regardless of the form of ownership.

Article VII. Miscellaneous

7.01 Notices

(a) Requirements

Each Person giving any notice pursuant to this Grant must give the notice in writing and must use one of the following methods of delivery: (i) personal delivery; (ii) certified mail, return receipt requested and postage prepaid; or (iii) nationally recognized overnight courier, with all fees prepaid.

(b) Address for Notices

Each Person giving a notice must address the notice to the appropriate Person at the receiving party at the address listed below or to another address designated by that Person by notice to the other Person:

If to Owners:

If to Holder:

7.02 Governing Law

The laws of the Commonwealth of Pennsylvania govern this Grant.

7.03 Assignment and Transfer

Neither Owners nor Holder may assign or otherwise transfer any of their respective rights or duties under this Grant voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other manner except as permitted below. Any purported assignment or transfer in violation of this section is void.

(a) By Holder

Holder may assign its rights and duties under this Grant, either in whole or in part, but only to a Qualified Organization that executes and records in the Public Records a written agreement assuming the obligations of Holder under this Grant. The assigning Holder must deliver the Baseline Documentation to the assignee Holder as of the date of the assignment. Holder must assign its rights and duties under this Grant to another Qualified Organization if Holder becomes the Owner of the Property.

(b) By Owners

This Grant vests a servitude running with the land binding upon the undersigned Owners and, upon recordation in the Public Records, all subsequent Owners of the Property or any portion of the Property are bound by its terms whether or not the Owners had actual notice of this Grant and whether or not the deed of transfer specifically referred to the transfer being under and subject to this Grant.

7.04 Burdens; Benefits; Exclusive to Holder

Subject to the restrictions on assignment and transfer set forth in the preceding section, this Grant binds and benefits Owners and Holder and their respective personal representatives, successors and assigns. Except for rights of Beneficiaries (if any) under Article V, only the Holder has the right to enforce the terms of this Grant and exercise rights of Review, Waiver, Amendment or other discretionary rights of Holder. Owners of Lots within the Property do not have the right to enforce the terms of this Grant against Owners of other Lots within the Property. Only the Owners of the Lot that is the subject of a request for Review, Waiver, Amendment, interpretation or other decision by Holder have any right to notice of, or other participation in, such decision.

7.05 Requirement of Writing

No Amendment, Waiver, approval after Review, interpretation or other decision by Holder is valid or effective unless it is in writing and signed by an authorized signatory for Holder. This requirement may not be changed by oral agreement. The grant of an Amendment or Waiver in any instance or with respect to any Lot does not imply that an Amendment or Waiver will be granted in any other instance.

7.06 Severability

If any provision of this Grant is determined to be invalid, illegal or unenforceable, the remaining provisions of this Grant remain valid, binding and enforceable. To the extent permitted by Applicable Law, the parties

waive any provision of Applicable Law that renders any provision of this Grant invalid, illegal or unenforceable in any respect.

7.07 Counterparts

This Grant may be signed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one document.

7.08 Indemnity

Owners must indemnify and defend the Indemnified Parties against all Losses and Litigation Expenses arising out of or relating to: (a) any breach or violation of this Grant or Applicable Law; and (b) damage to property or personal injury (including death) occurring on or about the Property if and to the extent not caused by the negligent or wrongful acts or omissions of an Indemnified Party.

7.09 Guides to Interpretation

(a) Captions

Except for the identification of defined terms in the Glossary, the descriptive headings of the articles, sections and subsections of this Grant are for convenience only and do not constitute a part of this Grant.

(b) Glossary

If any term defined in the Glossary is not used in this Grant, the defined term is to be disregarded as surplus material.

(c) Other Terms

- (i) The word “including” means “including but not limited to”.
- (ii) The word “must” is obligatory; the word “may” is permissive and does not imply any obligation.

(d) Conservation and Preservation Easements Act

This Grant is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation easement under the Conservation Easements Act.

(e) Restatement (Third) of the Law of Property: Servitudes

This Grant is intended to be interpreted so as to convey to Holder all of the rights and privileges of a holder of a conservation servitude under the Restatement (Third) of the Law of Property: Servitudes.

7.10 Entire Agreement

This is the entire agreement of Owners, Holder and Beneficiaries (if any) pertaining to the subject matter of this Grant. The terms of this Grant supersede in full all statements and writings between Owners, Holder and others pertaining to the transaction set forth in this Grant.

7.11 Incorporation by Reference

Each exhibit attached to this Grant is incorporated into this Grant by this reference. The Baseline Documentation (whether or not attached to this Grant) is incorporated into this Grant by this reference.

7.12 Coal Rights Notice

The following notice is given to Owners solely for the purpose of compliance with the Conservation Easements Act:

NOTICE: The Conservation Easement may impair the development of coal interests including workable coal seams or coal interests which have been severed from the Property.

Article VIII. Glossary

8.01 Access Drive(s)

Roads, drives or lanes providing vehicular access and located within the Property.

8.02 Additional Improvements

All buildings, structures, facilities and other improvements within the Property, whether temporary or permanent, other than Existing Improvements.

8.03 Agricultural Improvements

Improvements used or usable in furtherance of Agricultural uses such as barn, stable, silo, spring house, green house, hoop house, riding arena (whether indoor or outdoor), horse walker, manure storage pit, storage buildings, feeding and irrigation facilities.

8.04 Agricultural or Agriculture

Any one or more of the following and the leasing of land for any of these purposes:

(a) Farming

- (i) Production of vegetables, fruits, seeds, mushrooms, nuts and nursery crops (including trees) for sale.
- (ii) Production of poultry, livestock and their products for sale.
- (iii) Production of field crops, hay or pasture.
- (iv) Production of sod to be removed and planted elsewhere.

(b) Equestrian

Boarding, stabling, raising, feeding, grazing, exercising, riding and training horses and instructing riders.

8.05 Amendment

An amendment, modification or supplement to this Grant signed by Owners and Holder and recorded in the Public Records.

8.06 Applicable Law

Any federal, state or local laws, statutes, codes, ordinances, standards and regulations applicable to the Property, the Conservation Easement or this Grant as amended through the applicable date of reference. If this Grant is intended to meet the requirements of a qualified conservation contribution, then applicable provisions of the Code and the Regulations are also included in the defined term.

8.07 Best Management Practices

A series of guidelines or minimum standards (sometimes referred to as BMP's) recommended by federal, state and/or county resource management agencies for proper application of farming and forestry operations, non-point pollution of water resources and other disturbances of soil, water and vegetative resources and to protect wildlife habitats. Examples of resource management agencies issuing pertinent BMP's as of the Easement Date are: the Natural Resource Conservation Service of the United States Department of Agriculture (with respect to soil resources); the Pennsylvania Department of Environmental Protection (with respect to soil erosion, sedimentation and water resources) and the following sources of BMP's with respect to forest and woodland management: the Forest Stewardship Council principles and criteria, Sustainable Forestry Initiative standards, Forest Stewardship Plan requirements, American Tree Farm standards and Best Management Practices for Pennsylvania Forests.

8.08 Code

The Internal Revenue Code of 1986, as amended through the applicable date of reference.

8.09 Conservation Easements Act

The Pennsylvania Conservation and Preservation Easements Act, the act of June 22, 2001 (P.L. 390, No. 29) (32 P.S. §§5051-5059) as amended through the applicable date of reference.

8.10 Construction

Any demolition, construction, reconstruction, expansion, exterior alteration, installation or erection of temporary or permanent Improvements; and, whether or not in connection with any of the foregoing, any excavation, dredging, mining, filling or removal of gravel, soil, rock, sand, coal, petroleum or other minerals.

8.11 Default Rate

An annual rate of interest equal at all times to two percent (2%) above the "prime rate" announced from time to time in *The Wall Street Journal*.

8.12 Dwelling Unit

Use or intended use of an Improvement or portion of an Improvement for human habitation by one or more Persons (whether or not related). Existence of a separate kitchen accompanied by sleeping quarters is considered to constitute a separate Dwelling Unit.

8.13 Existing Agreements

Easements and other servitudes affecting the Property prior to the Easement Date that constitute legally binding servitudes prior in right to the Conservation Easement.

8.14 Existing Improvements

All buildings, structures, facilities and other improvements, whether temporary or permanent, located on, above or under the Property as of the Easement Date as identified in the Baseline Documentation.

8.15 Extraction Improvements

Wells, casements, impoundments and other Improvements for the exploration, extraction, collection, containment, transport and removal (but not processing or refining) of oil or natural gas (regardless of source) from substrata beneath the surface of the Property. The term "Extraction Improvements" includes any Access Drive required for the Construction or operation of Extraction Improvements or the removal of oil or natural gas from the Property. Extraction Improvements (whether or not providing sources of power for the Property) are not included in the defined terms "Utility Improvements" and "Site Improvements".

8.16 Forestry

Planting, growing, nurturing, managing and harvesting trees whether for timber and other useful products or for water quality, wildlife habitat and other Conservation Objectives.

8.17 Height

The vertical elevation of an Improvement measured from the average exterior ground elevation of the Improvement to a point, if the Improvement is roofed, midway between the highest and lowest points of the roof excluding chimneys, cupolas, ventilation shafts, weathervanes and similar protrusions or, if the Improvement is unroofed, the top of the Improvement.

8.18 Impervious Coverage

The aggregate area of all surfaces that are not capable of supporting vegetation within the applicable area of reference. Included in Impervious Coverage are the footprints (including roofs, decks, stairs and other extensions) of Improvements; paved or artificially covered surfaces such as crushed stone, gravel, concrete and asphalt; impounded water (such as a man-made pond); and compacted earth (such as an unpaved roadbed). Excluded from Impervious Coverage are running or non-impounded standing water (such as a naturally occurring lake); bedrock and naturally occurring stone and gravel; and earth (whether covered with vegetation or not) so long as it has not been compacted by non-naturally occurring forces.

8.19 Improvement

Any Existing Improvement or Additional Improvement.

8.20 Indemnified Parties

Holder, each Beneficiary (if any) and their respective members, directors, officers, employees and agents and the heirs, personal representatives, successors and assigns of each of them.

8.21 Invasive Species

A plant species that is (a) non-native (or alien) to the ecosystem under consideration; and (b) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. In cases of uncertainty, publications such as "Plant Invaders of the Mid-Atlantic Natural Areas", by the National Park Service National Capital Region, Center for Urban Ecology and the U.S. Fish and Wildlife Service, Chesapeake Bay Field Office are to be used to identify Invasive Species.

8.22 Lien

Any mortgage, lien or other encumbrance securing the payment of money.

8.23 Litigation Expense

Any court filing fee, court cost, arbitration fee or cost, witness fee and each other fee and cost of investigating and defending or asserting any claim of violation or for indemnification under this Grant including in each case, attorneys' fees, other professionals' fees and disbursements.

8.24 Losses

Any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees and penalties or other charge other than a Litigation Expense.

- 8.25 Lot**
A unit, lot or parcel of real property separated or transferable for separate ownership or lease under Applicable Law.
- 8.26 Market Value**
The fair value that a willing buyer, under no compulsion to buy, would pay to a willing seller, under no compulsion to sell as established by appraisal in accordance with the then-current edition of Uniform Standards of Professional Appraisal Practice issued by the Appraisal Foundation or, if applicable, a qualified appraisal in conformity with §1.170A-13 of the Regulations.
- 8.27 Native Species**
A plant or animal indigenous to the locality under consideration. In cases of uncertainty, published atlases, particularly *The Vascular Flora of Pennsylvania: Annotated Checklist and Atlas* by Rhoads and Klein and *Atlas of United States Trees, vols. 1 & 4* by Little are to be used to establish whether or not a species is native.
- 8.28 Owners**
The undersigned Owner or Owners and all Persons after them who hold an interest in the Property.
- 8.29 Person**
An individual, organization, trust, government or other entity.
- 8.30 Public Records**
The public records of the office for the recording of deeds in and for the county in which the Property is located.
- 8.31 Qualified Organization**
A governmental or non-profit entity that (a) has a perpetual existence; (b) is established as a public charity for the purpose of preserving and conserving natural resources, natural habitats, environmentally sensitive areas and other charitable, scientific and educational purposes; (c) meets the criteria of a qualified organization under the Regulations; and (d) is duly authorized to acquire and hold conservation easements under Applicable Law.
- 8.32 Regulations**
The provisions of C.F.R. §1.170A-14, and any other regulations promulgated under the Code that pertain to qualified conservation contributions, as amended through the applicable date of reference.
- 8.33 Regulatory Signs**
Signs (not exceeding one square foot each) to control access to the Property or for informational, directional or interpretive purposes.
- 8.34 Renewable Energy**
Energy that can be used without depleting its source such as solar, wind, geothermal and movement of water (hydroelectric and tidal).
- 8.35 Residential Improvements**
Dwellings and Improvements accessory to residential uses such as garage, swimming pool, pool house, tennis court and children's play facilities.
- 8.36 Resource Management Plan**
A record of the decisions and intentions of Owners prepared by a qualified resource management professional for the purpose of protecting natural resources described in the Conservation Objectives during certain operations potentially affecting natural resources protected by this Grant. The Resource Management Plan (sometimes referred to as the "RMP") includes a resource assessment, identifies appropriate performance standards (based upon Best Management Practices where available and appropriate) and projects a multi-year description of planned activities for identified operations to be conducted in accordance with the plan.
- 8.37 Review**
Review and approval of Holder under the procedure described in Article V.
- 8.38 Review Requirements**
Collectively, any plans, specifications or information required for approval of the Subdivision, activity, use or Construction under Applicable Law (if any) plus (a) the information required under the Review Requirements

incorporated into this Grant either as an exhibit or as part of the Baseline Documentation or (b) if the information described in clause (a) is inapplicable, unavailable or insufficient under the circumstances, the guidelines for Review of submissions established by Holder as of the applicable date of reference.

8.39 Site Improvements

Unenclosed Improvements such as Access Drives, Utility Improvements, walkways, boardwalks, retention/detention basins and other storm water management facilities, wells, septic systems, bridges, parking areas and other pavements, lighting fixtures, signs, fences, walls, gates, man-made ponds, berms and landscaping treatments.

8.40 Soil Conservation Plan

A plan for soil conservation and/or sedimentation and erosion control that meets the requirements of Applicable Law.

8.41 Steep Slope Areas

Areas greater than one acre having a slope greater than 15%.

8.42 Subdivision

Any division of the Property or any Lot within the Property; and any creation of a unit, lot or parcel of real property, including subsurface portions of the Property, for separate use or ownership by any means including by lease or by implementing the condominium form of ownership. The term "Subdivision" includes any "subdivision" as defined in the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended as of the applicable date of reference.

8.43 Sustainable

Land management practices that provide goods and services from an ecosystem without degradation of biodiversity and resource values at the site and without a decline in the yield of goods and services over time.

8.44 Utility Improvements

Improvements for the reception, storage or transmission of potable water, stormwater, sewage, electricity, gas and telecommunications or other sources of power.

8.45 Waiver

A written commitment by which Holder, without any obligation to do so, agrees to refrain from exercising one or more of its rights and remedies for a specific period of time with respect to a specific set of circumstances if Holder is satisfied that the accommodation will have no material effect on Conservation Objectives.

8.46 Wet Areas

Watercourses, springs, wetlands and non-impounded standing water and areas within 100-feet of their edge.

8.47 Woodland Areas

Area(s) within the Property described as "wooded" or "forested" in the Baseline Documentation or identified as such on the Conservation Plan, or if not wooded or forested as of the Easement Date, are designated as successional woodland areas on the Conservation Plan.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

INTENDING TO BE LEGALLY BOUND, the undersigned Owner or Owners and Holder, by their respective duly authorized representatives, have signed and delivered this Grant as of the Easement Date.

Witness/Attest:

_____ (SEAL)
Owner's Name:

_____ (SEAL)
Owner's Name:

[NAME OF HOLDER]

_____ By: _____ (SEAL)
Name:
Title:

This document is based on the Model Grant of Conservation Easement, 6th edition (10/10/2011), provided by the Pennsylvania Land Trust Association.

The model on which this document is based should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. It should be revised under the guidance of legal counsel to reflect the specific situation.

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF _____ :

ON THIS DAY _____, before me, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____, Notary Public

Print Name:

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF _____ :

ON THIS DAY _____ before me, the undersigned officer, personally appeared _____, who acknowledged him/herself to be the _____ of _____, a Pennsylvania non-profit corporation, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by her/himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____, Notary Public

Print Name: