

Outlined below is a sample conservation easement agreement. The sample agreement is based on a model agreement developed by the Pennsylvania Land Trust Association.

THIS CONSERVATION EASEMENT 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:
 State: Pennsylvania
 Parcel Identifier:
 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

This Conservation Easement 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.** This Conservation Easement seeks to protect the quality of water resources by maintaining buffer within the vicinity of streams, wetlands and other water resources described in the Baseline Documentation. Barnyard runoff controls and preservation of conservation cover on Steep Slopes are also implemented to protect water resources. These measures help to protect water resources from sediment and non-point pollution and promote the infiltration, detention and natural filtration of storm water. The restrictions also preserve habitat for Native Species dependent on water resources.

(ii) **Forest and Woodland Resources.** This Conservation Easement seeks to promote biological diversity and to perpetuate and foster the growth of a healthy and unfragmented forest or woodland. Features to be protected include Native Species; continuous canopy with multi-tiered understory of trees, shrubs, wildflowers and grasses; natural habitat, breeding sites and corridors for the migration of birds and wildlife. Species other than Native Species often negatively affect the survival of Native Species and disrupt the functioning of ecosystems. Trees store carbon, offsetting the harmful by-products of burning fossil fuels and trap air pollution particulates, cleaning air.

(iii) **Wildlife Resources.** This Conservation Easement seeks to protect large intact areas of wildlife habitat and connect patches of wildlife habitat. Large habitat patches typically support greater biodiversity and can maintain more ecosystem processes than small patches. Large

intact habitats allow larger, healthier populations of a species to persist; thus, increasing the chance of survival over time. Fragmentation of large habitats often decreases the connectivity of systems, negatively affecting the movement of species necessary for fulfilling nutritional or reproductive requirements.

(iv) **Scenic Resources.** This Conservation Easement seeks 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.** This Conservation Easement seeks 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.** This Conservation Easement seeks 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.** This Conservation Easement seeks 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.** This Conservation Easement seeks 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

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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 Conservation Easement

This Conservation Easement is divided into eight Articles. Articles II, III and IV contain the restrictive covenants imposed by the undersigned Owner or Owners on the Property. In Article V the undersigned Owner or Owners grant to Holder and Beneficiaries (if any) certain rights to enforce the restrictive covenants in perpetuity against all Owners of the Property (“Enforcement Rights”). Article V also contains the procedure for Review applicable to those items permitted subject to Review under Articles II, III and IV. Article VI details the procedures for exercise of Enforcement Rights. Article VII contains provisions generally applicable to both Owners and Holder. The last Article entitled “Glossary” contains definitions of capitalized terms used in this Conservation Easement and not defined in this Article I.

1.06 Federal Tax Items

(a) Qualified Conservation Contribution

This Conservation Easement has been donated in whole or in part to Holder by the undersigned Owner or Owners. It 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, a “Qualified Conservation Contribution”) to a qualified organization (as defined in §1.170(A-14)(c)(1) of the Regulations, a “Qualified Organization”).

(b) Public Benefit

The Baseline Documentation identifies public policy Statements and other factual information supporting the significant public benefit of this Conservation Easement as defined in §1.170A-14(d)(4)(iv) of the Regulations.

(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.

(d) Property Right

In accordance with §1.170A-14(g)(6) of the Regulations, the undersigned Owner or Owners agree that 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 this 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 by application of this provision in a manner consistent with the Conservation Objectives.

(e) Notice Required under Regulations

To the extent required for compliance with §1.170A-13(g)(4)(ii) of the Regulations, and only to the extent such activity is not otherwise

subject to Review under this Conservation Easement, Owners agree to notify Holder before exercising any reserved right that may have an adverse impact on the conservation interests associated with the Property.

(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 Conservation Easement, Owners agree that commercial recreational uses are not permitted within the Property.

1.07 Beneficiaries

As of the Easement Date, no Beneficiaries of this Conservation Easement have been identified by the undersigned Owner or Owners and Holder.

Article II. Subdivision

2.01 Prohibition

No Subdivision of the Property is permitted except as set forth below.

2.02 Permitted Subdivision

The following Subdivisions are permitted:

(a) Lot Line Change

Subdivision resulting in (i) no additional Lot; and (ii) no material decrease in the acreage of the Property; or (iii) subject to Review, other change in the boundary of the Property or any Lot not creating any additional Lot.

(b) Transfer to Qualified Organization

Subdivision to permit the transfer of a portion of the Property to a Qualified Organization for use by the Qualified Organization for park,

nature preserve, public trail or other conservation purposes consistent with and in furtherance of Conservation Objectives.

(c) Agricultural Lease

Transfer of possession (but not ownership) of land by lease for Sustainable Agriculture or Sustainable Forestry purposes in compliance with applicable requirements of this Conservation Easement.

2.03 Subdivision 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 the deed of transfer of a Lot created by the Subdivision those limitations applicable to more than one Lot under this Conservation Easement. This information will become part of the Baseline Documentation incorporated into this Conservation Easement.

(b) Amendment

Holder may require Owners to execute an Amendment of this Conservation Easement to reflect 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.
- (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.

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) Utility Improvements and Site Improvements reasonably required for activities and uses permitted within the Standard Protection Area.

(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 ___ feet except for Utility Improvements (such as windmills) providing alternative sources of energy approved by the Holder after Review.
- (ii) Impervious Coverage must not exceed a limit of ___ square feet per roofed Improvement. Impervious Coverage must not exceed a limit of ___ 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.

(iii) Access Drives and farm lanes are limited to ___ feet in width and are further limited, in the aggregate, to ___ feet in length.

(iv) Ponds are limited, in the aggregate, to ___ square feet of Impervious Coverage.

(v) In addition to Regulatory Signs, signs are limited to a maximum of ___ square feet per sign and ___ square feet in the aggregate for all signs within the Property.

(vi) Utility Improvements must be underground or, subject to Review, may be aboveground where not reasonably feasible to be installed underground or where used as a means of providing alternative sources of energy (such as wind or solar).

The following Utility 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 oil, petroleum or propane gas for uses within the Property permitted under this Conservation Easement); and (B) Utility Improvements servicing Improvements not within the Property.

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) Utility Improvements and Site Improvements servicing activities, uses or Improvements permitted within the Property. Signs remain limited as set forth for the Standard Protection Area.

(c) Limitations

(i) Not more than ___ Improvements (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 ___ feet.

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 the grant of this Conservation Easement 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

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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 older 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 and maintain access to 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 (including motorized vehicular use) in connection with an activity permitted within the Highest Protection Area or otherwise in the case of emergency.
- (v) Except within Wet Areas, cutting trees for use on the Property not to exceed ___ cords per year.
- (vi) Subject to Review, removal of vegetation to accommodate replanting with a diversity of Native Species of trees, shrubs and herbaceous plant materials.
- (vii) Other resource management activities consistent with maintenance or attainment of Conservation Objectives and conducted in accordance with the Resource Management Plan approved for that activity after Review.

(c) Release and Disposal

- (i) Application of substances (other than manure) to promote health and growth of vegetation in accordance with manufacturer's recommendations and Applicable Law. Within Wet Areas only substances approved for aquatic use are permitted.
- (ii) Piling of brush and other vegetation to the extent reasonably necessary to accommodate an activity permitted within the Highest Protection Area under this Conservation Easement.

(d) Recreational and Educational Uses

Activities that do not require Improvements other than those permitted within the Highest Protection Area 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 on trails, bird watching, nature study, fishing and hunting; and (ii) educational

or scientific activities consistent with and in furtherance of the Conservation Objectives.

4.04 Permitted Within Standard Protection Area

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

(a) Permitted under Preceding Sections

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

(b) Agricultural and Forestry Uses; Disturbance of Resources

- (i) Uses and activities that maintain continuous vegetative cover (other than Invasive Species) such as pasture and grazing use, meadow, turf or lawn.
- (ii) Sustainable Agricultural uses that do not maintain continuous vegetative cover (such as plowing, tilling, planting and harvesting field crops, equestrian, horticultural and nursery use) if conducted in accordance with a Soil Conservation Plan furnished to Holder.
- (iii) Removal of vegetation and other Construction activities reasonably required to accommodate Improvements permitted within the Standard Protection Area.
- (iv) Sustainable Forestry uses in accordance with a Resource Management Plan approved after Review. Woodland Areas within the Standard Protection Area may not be used for or converted to Agricultural uses unless Holder, without any obligation to do so, approves after Review.
- (v) Subject to Review, Sustainable Agricultural uses within Steep Slope Areas if conducted in accordance with a Soil Conservation Plan implementing measures to minimize adverse

effects on water resources such as a conservation tillage system, conservation cover, conservation cropping sequence, contour farming or cross slope farming.

- (vi) Subject to Review, Agricultural uses that involve removal of soil from the Property (such as sod farming and ball-and-burlap nursery or tree-farming uses) if conducted in accordance with a Resource Management Plan providing for, among other features, a soil replenishment program that will qualify the activity as a Sustainable Agricultural use.
- (vii) Subject to Review, removal or impoundment of water for activities and uses permitted within the Standard Protection Area under this Conservation Easement but not for sale or transfer outside the Property.

(c) 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 under Article III if not reasonably feasible to confine such disposal to Minimal Protection Area.

(d) Recreational and Open-Space Uses

Non-commercial recreational and open-space uses that do not require Improvements other than those permitted within the Standard Protection Area; do not materially and adversely affect scenic views and other values described in the Conservation Objectives; and do not

require 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 residential landscaping purposes and other purposes reasonably related to 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 under this Article.
 (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 and 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 ___ Dwelling Units.
 (ii) Any occupation, activity or use that is wholly contained within an enclosed Improvement permitted under Article III is permitted. 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 Conservation Easement and unconditionally delivering it to Holder, the undersigned Owner or Owners, intending to be legally bound, grant and convey to Holder a conservation servitude over the Property in perpetuity for the purpose of 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 attached to this Conservation Easement as an Exhibit the legally binding subordination of any Liens affecting the Property as of the Easement Date.

5.02 Rights and Duties of Holder

The grant to Holder under the preceding section gives Holder the right and duty to perform the following tasks:

(a) Enforcement

To enforce the terms of this Conservation Easement in accordance with the provisions of

Article VI including, in addition to other remedies, the right to enter the Property to investigate a suspected, alleged or threatened violation.

(b) Inspection

To enter and inspect the Property for compliance with the requirements of this Conservation Easement 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 as and when required under applicable provisions of this Conservation Easement.

(d) Interpretation

To interpret the terms of this Conservation Easement, apply the terms of this Conservation Easement to factual conditions on or about the Property, respond to requests for information from Persons having an interest in this Conservation Easement or the Property (such as requests for a certification of compliance), and apply the terms of this Conservation Easement to changes occurring or proposed within the Property.

5.03 Other Rights of Holder

The grant to Holder under this Article also permits Holder, without any obligation to do so, to exercise the following rights:

(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 this 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.

5.04 Review

The following provisions are incorporated into any provision of this Conservation Easement 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

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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 Reasonableness

Holder's approval will not be unreasonably withheld; however, 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 Conservation Easement 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

(a) Failure to Enforce

If Holder fails to enforce this Conservation Easement, or ceases to qualify as a

Qualified Organization, then the rights and duties of Holder under this Conservation may be (i) exercised by a Beneficiary or a Qualified Organization designated by a Beneficiary; and/or (ii) transferred to another Qualified Organization by a court of competent jurisdiction.

(b) Transferee

The transferee must be a Qualified Organization and must commit to hold this Conservation Easement exclusively for conservation purposes as defined in the Code.

6.02 Violation of Conservation Easement

If Holder determines that this Conservation Easement is being or has 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) Coercive Relief

Seek coercive relief to specifically enforce the terms of this Conservation Easement; to restrain present or future violations of this Conservation Easement; and/or to compel restoration of natural 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 Conservation Easement 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 this 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 or any Beneficiary is entitled to recover from the Person seeking the modification or termination, (i) restitution of amounts paid for this Conservation Easement (if any) and any other sums invested in the Property for the benefit of the public as a result of rights granted under this Conservation Easement 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 this Conservation Easement 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 this Conservation Easement, the Owners of the Lot in violation are jointly and severally liable for the violation regardless of the form of ownership.

6.10 Continuing Liability

If a Lot subject to this Conservation Easement is transferred while a violation remains uncured, the transferor Owners remain liable for the violation jointly and severally with the transferee Owners. This

provision does not apply if Holder has issued a certificate of compliance evidencing no violations within thirty (30) days prior to the transfer. It is the responsibility of the Owners to request a certificate of compliance to verify whether violations exist as of the date of transfer.

Article VII. Miscellaneous

7.01 Notices

(a) Requirements

Each Person giving any notice pursuant to this Conservation Easement 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 internal laws of the Commonwealth of Pennsylvania govern this Conservation Easement.

7.03 Assignment and Transfer

Neither Owners nor Holder may assign or otherwise transfer any of their respective rights or duties under this Conservation Easement 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 Conservation Easement, 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 Conservation Easement. 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 Conservation Easement to another Qualified Organization if Holder becomes the Owner of the Property.

(b) By Owners

This Conservation Easement is 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 Conservation Easement and whether or not the deed of transfer specifically referred to the transfer being under and subject to this Conservation Easement.

7.04 Binding Agreement

Subject to the restrictions on assignment and transfer set forth in the preceding Section, this Conservation Easement binds and benefits Owners and Holder and their respective personal representatives, successors and assigns.

7.05 No Other Beneficiaries

This Conservation Easement does not confer any Enforcement Rights or other remedies upon any Person other than Owners, Holder and the Beneficiaries (if any) specifically named in this Conservation Easement. Owners of Lots within or adjoining the Property are not beneficiaries of this Conservation Easement and, accordingly, have no right of approval or joinder in any Amendment other than an Amendment applicable to the Lot owned by such Owners. This provision does not preclude Owners or other Persons having an interest in this Conservation Easement from petitioning a court of competent jurisdiction to exercise remedies available under this Conservation Easement for breach of duty by Holder.

7.06 Amendments, Waivers

No Amendment or waiver of any provision of this Conservation Easement or consent to any departure by Owners from the terms of this Conservation Easement is effective unless the Amendment, waiver or consent is in writing and signed by an authorized signatory for Holder. A waiver or consent is effective only in the specific instance and for the specific purpose given.

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7.07 Severability

If any provision of this Conservation Easement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Conservation Easement 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 Conservation Easement invalid, illegal or unenforceable in any respect.

7.08 Counterparts

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

7.09 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 Conservation Easement 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.

7.10 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 Conservation Easement are for convenience only and do not constitute a part of this Conservation Easement.

(b) Glossary

If any term defined in the Glossary is not used in this Conservation Easement, 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 Conservation Easement 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 of Servitudes

This Conservation Easement 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 Servitudes.

7.11 Entire Agreement

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

7.12 Incorporation by Reference

The following items are incorporated into this Conservation Easement by means of this reference:

- The Baseline Documentation
- The legal description of the Property attached as Exhibit “A”
- The Conservation Plan attached as Exhibit “B”

7.13 Coal Rights Notice

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

NOTICE: This 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 or drives providing access to and from Improvements or Minimal Protection Areas and public right -of-way.

8.02 Additional Improvements

All buildings, structures, facilities and other improvements within the Property other than Existing Improvements. The term Additional Improvements includes Agricultural Improvements, Residential Improvements, Utility Improvements and Site 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 Conservation Easement 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 or this Conservation Easement as amended through the applicable date of reference.

8.07 Beneficiary

Any governmental entity or Qualified Organization that is specifically named as a Beneficiary of this Conservation Easement under Article I.

8.08 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.

8.09 Code

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

8.10 Conservation Easements Act

The Pennsylvania Conservation and Preservation Easements Act, Act 29 of 2001, Pub. L. 390 as amended through the applicable date of reference.

8.11 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.

8.12 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*.

8.13 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.

8.14 Existing Agreements

Easements and other servitudes affecting the Property prior to the Easement Date and running to the benefit of utility service providers and other Persons that constitute legally binding servitudes prior in right to this Conservation Easement.

8.15 Existing Improvements

Improvements located on, above or under the Property as of the Easement Date as identified in the Baseline Documentation.

8.16 Existing Lots

Lots existing under Applicable Law as of the Easement Date.

8.17 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.

8.18 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.

8.19 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.

8.20 Improvement

Any Existing Improvement or Additional Improvement.

8.21 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.

8.22 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.

8.23 Lien

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

8.24 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 Conservation Easement including in each case, attorneys' fees, other professionals' fees and disbursements.

8.25 Losses

Any liability, loss, claim, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees

Appendix D: Conservation Easement

and penalties or other charge other than a Litigation Expense.

8.26 Lot

A unit, lot or parcel of real property separated or transferable for separate ownership or lease under Applicable Law.

8.27 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.

8.28 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.

8.29 Owners

The undersigned Owner or Owners and all Persons after them who hold any interest in all or any part of the Property.

8.30 Person

An individual, organization, trust or other entity.

8.31 Public Records

The public records of the Office for the Recording of Deeds in and for the County in which the Property is located.

8.32 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.

8.33 Regulations

The provisions of C.F.R. §1.170A-14 as amended through the applicable date of reference.

8.34 Regulatory Signs

Signs (not exceeding one square foot each) to control access to the Property or for informational, directional or interpretive purposes.

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 under this Conservation Easement. 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 Conservation Easement 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 driveways, walkways, boardwalks, storm water management facilities, 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 transfer of an Existing Lot into separate ownership; any change in the boundary of the Property or any Lot within the Property; and any creation of a unit, lot or parcel of real property for separate use or ownership by any means including by lease or by implementing the condominium form of ownership.

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 water, sewage, electricity, gas and telecommunications or other sources of power.

8.45 Wet Areas

Areas within 100-feet beyond the edge of watercourses, springs, wetlands and non-impounded standing water.

8.46 Woodland Areas

Area(s) designated on the Conservation Plan and subject to use limitations intended

to allow the maintenance or growth of hedgerows or other wooded areas within a portion of the Property that would otherwise be available for Agricultural use.

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

Witness/Attest:

Owner's Name:

Owner's Name:

By: _____
Name:
Title:

Acceptance by Beneficiary:
[NAME OF BENEFICIARY]

By: _____
Name:
Title:

This document is based on the *Pennsylvania Conservation Easement (4/20/06 ed.)* provided by the Pennsylvania Land Trust Association. This document should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. The *Pennsylvania Conservation Easement* must be revised to reflect specific circumstances under the guidance of legal counsel.

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 :
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:

Appendix D: Conservation Easement
