

AGRICULTURAL CONSERVATION EASEMENT

THIS AGRICULTURAL CONSERVATION EASEMENT (hereinafter "Conservation Easement") made this [redacted] day of [redacted] 2018 by and between [redacted] AND [redacted], husband and wife, [redacted], [redacted], Kentucky [redacted] (hereinafter "Grantors"), in favor of **THE COMMONWEALTH OF KENTUCKY**, by and through the **FINANCE AND ADMINISTRATION CABINET** for the use and benefit of the **Department of Agriculture/Purchase of Agricultural Conservation Easement ("PACE") Corporation**, a de jure municipal and political subdivision of the Commonwealth of Kentucky created by Kentucky Revised Statutes (hereinafter "KRS") 262.900 to 262.920, with its principal office and mailing address at, 111 Corporate Drive, Frankfort, Kentucky 40601 (hereinafter "Grantee").

WITNESSETH:

WHEREAS, the Grantor is the owner in fee simple of certain real property with all improvements thereon in [redacted] County, Kentucky, containing [redacted] acres of land, of which [redacted] percent ([redacted]%) is considered prime farmland and [redacted] percent ([redacted]%) is statewide important and/or unique farmland, more particularly described in Exhibit A attached hereto and incorporated herein and as recorded in Plat Cabinet [redacted], Slide [redacted] of the [redacted] County Clerk's office (hereinafter "the Property");

WHEREAS, the Grantee is authorized by KRS 262.900 to 262.920 to purchase and accept conservation easements as required to maintain and enhance agricultural values for farming and food production of real property, assuring its availability for agricultural, forest, or open-space use and protection of natural resources in order to ensure the well-being of the people of the Commonwealth of Kentucky now and in the future, under the provisions of KRS 382.800 through 382.880 (hereinafter the "Act");

WHEREAS, the Grantee is a qualifying recipient of qualified conservation contributions under Sections 170(b), (f) and (h) of the Internal Revenue Code of 1988, as amended (hereinafter the "Code");

WHEREAS, the Grantors and Grantee recognize the agricultural and open-space values (hereinafter "Conservation Values") and significance of the property, and have the common purpose of conserving and preserving the aforesaid values and significance of the property;

WHEREAS, Conservation Values, other natural features, state of improvement and use, are documented in a set of baseline documents which consist of photographs and/or drawings of the Property, plat and conservation plan which the parties agree provides an accurate representation of the Property as of the effective date of this Conservation Easement;

WHEREAS, a grant of the Easement will serve the purpose of the federal government's Farm and Ranch Lands Protection Program, 16 U.S.C. 3838h and 3838i, note, as administered by the Natural Resources Conservation Service ("NRCS") which provides for the Secretary of Agriculture to purchase conservation easements or other interests in land "with prime, unique, or other productive soil for the purpose of protecting topsoil by limiting nonagricultural uses of the land" as well as the policies of the Commonwealth of Kentucky set forth at KRS 382.800 to "retain or protect natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use" and for "protecting natural resources, maintaining, or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property."

WHEREAS, Grantors desire to grant to Grantee, and Grantee desires to accept, a preservation and agricultural Conservation Easement in gross in perpetuity on the Property pursuant to the Act.

NOW, THEREFORE, in consideration of Grantor's desire to keep the land hereinafter described in agricultural production and other good and valuable consideration, the receipt of which is hereby acknowledged, there being no monetary consideration, the Grantors grant and convey to the Grantee, with general warranty of title, a Conservation Easement in perpetuity in and to the property as shown in Exhibit A.

The property subject to the Agricultural Conservation Easement, as shown on Exhibit A, being all of the same property vested in [redacted], husband and wife, from [redacted] by virtue of General Warranty Deed dated [redacted] which is recorded in Deed Book [redacted] Page [redacted] of the [redacted] County Clerk.

All development rights hereby conveyed to the Grantee shall include the development rights except those specifically reserved by the Grantors herein and those reasonably required to carry out the permitted uses of the property as herein described. The Conservation Easement, to be of the nature and character hereinafter further expressed, shall constitute a binding servitude upon the Property, and to that end Grantors covenant on behalf of themselves, their heirs, estates, successors, and assigns, with Grantee, its successors and assigns, such covenants being deemed to run as a binding servitude, in perpetuity, with the land, to do upon the Property each of the following covenants and stipulations, which contribute to the public purpose in that they aid significantly in the preservation of the open-space character, agricultural productivity, and scenic qualities of the Property.

I. PURPOSES OF THE GRANT

- (A) Grantors and Grantee acknowledge that the Purposes of this Grant are as follows (hereinafter "Purpose of Grant"):
- (B) Consistent with the goals set forth in KRS 262.900 to 262.920, it is the Purpose of this Conservation

Easement to conserve productive agricultural and forestry lands in order to facilitate active and economically viable farm use of the Property now and in the future.

(C) Grantors and Grantee recognize the agricultural and silvicultural values of the Property, and share the common purpose of conserving these values by the conveyance of conservation restrictions and development rights, to prevent the use or development of the property for any purpose or in any manner which would conflict with the maintenance of these agricultural and silvicultural values. Grantee accepts such conservation restrictions and development rights in order to conserve these values for present and future generations.

II. RESTRICTED USES OF PROPERTY

The restrictions hereby imposed upon the Property, and the acts which Grantors shall do or refrain from doing, are as follows.

(A) Agricultural Uses.

(1) The Property shall be used solely for the production of crops, livestock and livestock products, and nursery and greenhouse products including the processing or retail marketing of these crops, livestock and livestock products, and nursery and greenhouse products if more than fifty percent (50%) of the processed or merchandised products are produced on the subject land, and for the raising and stabling of horses for commercial purposes. For the purposes of this section and administrative regulations promulgated under its provisions, "crops, livestock and livestock products, and nursery and greenhouse products" include, but are not limited to:

- i) Tobacco;
- ii) Wheat, soybeans, corn, and all commercially-produced fruits and vegetables;
- iii) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees, and flowers;
- iv) Livestock and livestock products, including horses, cattle, poultry, milk, swine, and eggs; and
- v) Aquatic plants and animals and their by-products.

(2) All other commercial or industrial uses are prohibited.

(3) During the term of this Conservation Easement, the landowner and the landowner's assigns, agents, or lessees shall not perform, nor knowingly allow others to perform, any act on or affecting the property that is inconsistent with the provisions of this section

(B) Conservation Plan.

(1) As required by section 1238I of the Food Security Act of 1985, as amended, the Grantors, their heirs, successors, or assigns, shall conduct all agricultural operations on the protected property in a manner consistent with a conservation plan prepared in consultation with the Natural Resources Conservation Service (NRCS) and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12, effective on [REDACTED]. However, the Grantors may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

(2) In the event of noncompliance with the conservation plan, NRCS shall work with the Grantors to explore methods of compliance and give the Grantors a reasonable amount of time, not to exceed twelve (12) months, to take corrective action. If the Grantors do not comply with the conservation plan, NRCS will inform Grantee of the Grantors' noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance, and if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS (a) that there is a substantial, ongoing event or circumstance of noncompliance with the conservation plan, (b) NRCS has worked with the Grantors to correct such noncompliance, and (c) Grantors have exhausted its appeal rights under applicable NRCS regulations.

(3) If the NRCS standards and specifications for highly erodible land are revised after the date of this Grant based on an Act of Congress, NRCS will work cooperatively with the Grantors to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

(C) Structures.

(1) The construction or reconstruction of any building or structure, except those existing on the date of this Conservation Easement and as specifically permitted herein is prohibited.

(2) Existing fences may be repaired and replaced, and new fences may be built anywhere on the restricted land for purposes of reasonable and customary management of livestock and wildlife.

(3) New buildings and other structures and improvements to be used solely for agricultural purposes including the processing or sale of farm products grown or raised on the restricted land, but not including any dwelling for farm labor may only be built on the restricted land with the advance written approval of the Grantee. The Grantee shall grant permission or approval to Grantors only where Grantee, acting in Grantee's sole reasonable

discretion and in good faith, determines that the proposed action will not diminish or impair the agricultural values of the property and the proposed structure to be built will not be located on prime or unique farmland, unless there is no alternative (that is, the parcel is 100% prime, statewide, and/or unique farmland). Existing agricultural structures may be repaired or replaced at their current locations without permission of the PACE Board.

(4) Existing single family residential dwellings may be repaired, reasonably enlarged, and replaced at their current locations without permission of the PACE Board. No new single family residential dwellings may be built on the property without the advance approval of the PACE Board. The PACE Board shall give approval within a reasonable time, unless it determines that a proposed dwelling would not be properly located or would significantly diminish the agricultural production capacity of the property.

(5) All permitted structures, including any permitted roads, driveways and any other impervious surface shall not exceed three (3) percent of the Property. Impervious surfaces are permanent, non-seasonal rooftops, concrete and asphalt surfaces. Gravel roads, water (including animal waste ponds) and conservation practices listed in the Natural Resources Conservation Service Field Office Technical Guide are exempt from the impervious cover limitation.

(D) Subdivision.

(1) Pursuant to KRS 262.910, subdivision of the Property whether by physical or legal process is prohibited without the advance written approval of the PACE board. The PACE board shall give approval within a reasonable time, unless it determines that the proposed subdivision will diminish or impair the agricultural productivity of the restricted land.

(2) In accordance with 302 KAR 100:030, the administrative regulation creates a minimal acreage deemed by the PACE Board beyond which further subdivision would harm the agricultural value of the restricted land.

a. Section 1. Minimum Acreage Requirement. Any division of land restricted by an agricultural conservation easement that will result in any remaining parcel being less than fifty (50) acres shall be deemed to impair the agricultural productivity of the restricted land.

b. Section 2. Limit on Number of Divisions. Any further division of restricted land after an approved initial request shall be deemed to impair the agricultural productivity of the restricted land.

c. Section 3. Election to Waive Subdivision Rights.

i. Any owner of land may elect to expressly waive subdivision rights when the property enters into the Purchase of Agricultural Conservation Easement Program. This election shall be filed with the conservation easement. This election shall be irrevocable once recorded. The PACE Board shall not grant subdivision requests in the future if this express waiver is recorded.

ii. Any owner of restricted lands may record an amendment to his or her easement to expressly waive subdivision rights of property in the Purchase of Agricultural Conservation Easement Program. This election shall be irrevocable once recorded. The PACE Board shall not grant subdivision requests in the future if this express waiver is recorded with the amendment to the conservation easement

iii. Any subsequent owner of restricted land shall take ownership subject to the recorded election to waive subdivision rights, and that election by the prior owner shall remain valid and binding on the PACE Board. (35 Ky.R. 2836; Am. 36 Ky.R. 324; eff. 8-28-2009.)

(E) Roads and Right-of-way.

(1) The granting of rights-of-ways for any purpose, including the installation of, transportation of, or use of, lines for water, sewage, electric, telephoné, gas, oil, or oil products is prohibited, except when necessary to carry-out permitted uses on the Property.

(2) No portion of the Property shall be paved or otherwise be covered with concrete, asphalt, gravel, or any other paving material, nor shall any road for access or other purposes be constructed without the advance written approval of Grantee as set forth herein.

(F) Timber harvest. Trees may be cut to control insects and disease, to prevent personal injury and property damage, and for firewood and other domestic uses, including construction of permitted buildings and fences on the restricted land. Trees may also be cut to clear land for cultivation or use of livestock, but only if done in accordance with the conservation plan required by this section. Any commercial timber harvesting on the restricted land shall be conducted on a sustainable yield basis and in substantial accordance with a forest management plan prepared by a competent professional forester.

(G) Mining. The mining or extraction, using any method, of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited. However, the Grantee may, in its sole discretion, authorize specific mining activities for gravel or similar materials that are limited in scope and impact, if the Grantee determines that the mining activities are in direct furtherance of the agricultural operations being conducted on the Property. However, any such permitted mining shall not exceed 1 acre and shall be reclaimed as soon as practicable after

extraction has been completed.

(H) **Waste.** The dumping or accumulation of any kind of trash or refuse on the restricted land is prohibited. However, this shall not prevent the storage of agricultural products and by-products produced or generated on the Property, so long as it is done in accordance with all applicable laws, administrative regulations and ordinances.

(I) **Other uses.** Golf courses or ranges, helicopter pads, athletic fields, airstrips, cell towers, or any other structure or improvement inconsistent with current or future agricultural production including but not limited to the afore mentioned are prohibited. Other facilities for recreational use not inconsistent with current or future agricultural production may be built, but only with the advance written approval from Grantee.

(J) **Ponds.** The construction of ponds or reservoirs shall be permitted only upon the prior written approval of Grantee and only when necessary to carry-out the permitted agricultural operations. In no event, may such approved water resources exceed the 3% impervious surface limit.

(K) **Signage.** Grantee, with the permission of Grantors, may erect and maintain signs designating the Property as land under the protection of the Grantee.

(L) **Vehicle use.** The use of vehicles on the Property is prohibited except as is necessary to carry-out the permitted uses under this Conservation Easement. All such permitted uses shall be carried out in a manner to protect the Conservation Values.

(M) **Permission of the Grantee:** When this Easement requires Grantee permission, it shall be carried out in accordance this paragraph. Grantee shall grant approval or permission to Grantors only where Grantee, acting in the Grantee's sole discretion and in good faith, determines that the proposed action will not diminish or impair the agricultural Conservation Values of the property. Grantee shall not be liable for any failure to grant permission or approval to Grantors. Grantee shall make decisions on Grantors' requests within a reasonable time of receiving Grantors' request.

III. RESERVED USES OF THE PROPERTY

Grantors retain the right to perform any act not specifically prohibited or limited by this Conservation Easement. These rights include, but are not limited to, the right to exclude any member of the public from trespassing on the restricted land, the right of quiet enjoyment, and the right to sell or otherwise transfer the Property, subject to the terms of this Easement, to anyone of Grantor's choice.

IV. INDEMNIFICATION; TAXES

(A) **Indemnification.** Grantors hereby agree to pay, protect, indemnify, and hold harmless at its own cost and expense, Grantee, their agents, directors and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising from, of, or in connection with injury to or death of any persons; physical damage to the property; the presence or release in, on, or about the property at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as hazardous, toxic, polluting, or contaminating substance; or other injury or other damage occurring on or about the Property, unless such injury or damage is caused by Grantee or any agent, trustee, employee, or contractor of Grantee

(B) **Taxes.** Grantors shall pay immediately, when first due or owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the property unless Grantors timely object to the amount or validity of the assessment or charge and diligently prosecute an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. In place of Grantors, Grantee is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantors any payment relating to taxes, assessments, water rates, sewer rentals, and other governmental or municipality charge, fine, imposition, or lien asserted against the property. Grantee may make such payment according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement, or assessment or into the validity of such tax, assessment, sale or forfeiture. Such payment if made by Grantee shall constitute a lien on the property with the same effect and priority as a mechanic's lien, except that such lien shall not jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the property.

(C) **Environmental Warranty.**

(1) Grantors warrant that they are in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantors warrant that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantors further warrant that they have no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

(2) Moreover, Grantors hereby promise to hold harmless and indemnify the Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantors or any other prior owner of the Property.

Grantors' indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantors with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Property by Grantee.

(3) "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(4) "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

V. ADMINISTRATION AND ENFORCEMENT

(A) Written Notice.

(1) Any notice which either Grantors or Grantee may desire or be required to give to the other party shall be in writing and shall be delivered by one of the following methods – by overnight courier postage prepaid, facsimile transmission, registered or certified mail with return receipt requested, or hand delivery; if to Grantors, [REDACTED] AND [REDACTED], husband and wife, [REDACTED], [REDACTED], Kentucky [REDACTED] and if to Grantee, then to Department of Agriculture/PACE Corporation, , 111 Corporate Drive, Frankfort, Kentucky 40601.

(2) Each party may change its address set forth herein by a notice to such effect to the other party.

(B) **Evidence of Compliance.** Upon request by Grantee, Grantors shall promptly furnish Grantee with certification that, to the best of Grantors' knowledge, Grantors are in compliance with the obligations of Grantors contained herein, or that otherwise evidences the status of this Conservation Easement to the extent of Grantors' knowledge thereof.

(C) **Inspection.** With reasonable prior notice to the Grantors, representatives of the Grantee shall be permitted to inspect the Property.

(D) Grantee's Remedies.

(1) Grantee may, following reasonable written notice to Grantors, institute suit(s) to enjoin any violation of the terms of this Conservation Easement by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunction relief. Except when an ongoing or imminent violation could irreversibly diminish or impair the agricultural productivity of the restricted land, Grantee shall give the Grantors written notice of the violation and sixty (60) days to correct it before taking legal action. Grantee shall also have available all legal and other equitable remedies to enforce Grantors' obligations hereunder. In the event Grantors are found to have violated any of its obligations, Grantors shall bear all costs associated with the correction of a violation of the Conservation Easement, including costs of work required and materials used to correct the violation and restore the restricted land to its condition prior to the violation; administrative costs incurred by Grantee, and court costs and reasonable attorneys' fees incurred by the Grantee in enforcing the Easement.

(2) Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

(E) **Notice from Government Authorities.** Grantors shall deliver to Grantee copies of any notice of violation or lien relating to the Property received by Grantors from any government authority within five (5) days of receipt by Grantors. Upon request by Grantee, Grantors shall promptly furnish Grantee with evidence of Grantors' compliance with such notice or lien where compliance is required by law.

(F) **Notice of Proposed Sale.** Grantors shall promptly notify Grantee in writing of any proposed sale of the property and provide the opportunity for Grantee to explain the terms of the Conservation Easement to potential new owners prior to sale closing.

(G) **Enforcement.** Grantors shall be deemed to have authorized the PACE Board to enforce these provisions. Unless otherwise specified, the landowner shall not be required to take any action to restore the condition of the property after any act of God or other event over which the landowner had no control. Nothing in the PACE Program shall relieve the landowner of any obligation or restriction on the use of the property imposed by law.

(H) **Baseline Documentation.** The baseline documents described herein may be used by Grantee to establish that a change in the use or character of the Property has occurred, but its existence shall not preclude the use by Grantee of other evidence to establish the condition of the property as of the date of this Conservation Easement.

VI. BINDING EFFECT; ASSIGNMENT

(A) **Runs with the Land.** The obligations imposed by this Conservation Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Conservation Easement shall extend to and be binding upon Grantors and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantors and Grantee, and the words "Grantors" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

(B) **Assignment.** Subject to the rights of the above, Grantee may convey, assign, or transfer this Conservation Easement to a unit of federal, state, or local government or to a similar local, state, or national organization that is a "qualified organization" under Section 170(h) of the Code whose purposes, inter alia, are to promote preservation or conservation of agricultural, historical, cultural, or architectural resources, provided that any such conveyance, assignment, or transfer requires that the Purpose for which the Conservation Easement was granted will continue to be carried out.

(C) **Recording and Effective Date.** Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Conservation Easement in the land records of Logan County, Kentucky. Grantors and Grantee intend that this document and the restrictions arising under this Conservation Easement shall take effect on the day of execution.

VII. LEGAL ACTION BY GRANTOR FOR TERMINATION OF EASEMENT

(A) Termination.

(1) Grantors, or the Grantors' successors and assigns (hereinafter collectively referred to as "the current property owner"), may terminate the Conservation Easement, in whole or in part, only by filing an action in the Franklin Circuit Court, and demonstrating by clear and convincing evidence that conditions on or surrounding the land subject to an agricultural Conservation Easement have changed so much that agriculture is no longer viable and it has become impossible to fulfill any of the Conservation Easement's conservation purposes. The current property owner shall name the Grantee as defendants in the action. In the event that a finding is made by that Court that a portion of the land subject to the agricultural Conservation Easement is no longer suitable for agricultural purposes, the current property owner shall, at the sole expense of the current property owner, provide a survey of the land area on which the agricultural Conservation Easement is to be terminated.

(2) No agricultural Conservation Easement or portion thereof which has been purchased with Commonwealth funds and federal funds shall be terminated by the Court except upon payment by the current property owner to the PACE Corporation as set out hereinafter.

(3) The amount to be paid to the PACE Corporation upon termination of an agricultural Conservation Easement shall be determined by the Court and shall be the higher of:

a. an amount equal to the easement's current fair market value as determined by independent appraisal, performed at the current property owner's expense and satisfactory to the Commonwealth, or

b. an amount equal to the consideration originally paid for the conservation easement.

(4) In addition to the amount required by Section VIII(A)(3) above, should the Conservation Easement terminate, the current property owner shall pay the PACE Corporation an amount equal in current dollars to the full cost of acquiring and monitoring the Conservation Easement during its full duration, plus interest at the legal rate on this amount.

(5) The PACE Corporation shall place its portion of the proceeds from any termination of this Conservation Easement in the agricultural enhancement fund and use the proceeds consistent with the purposes of KRS 262.900 to 262.920.

(B) Condemnation.

(1) If all or any part of the property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, the current property owner and Grantee shall join in appropriate proceedings at the time of such a taking to recover the full value of all interests in the property that are subject to the taking and all incidental and direct damages resulting from the taking. After the satisfaction of claims and expenses reasonably incurred by the current property owner and the Grantee in connection with such taking, the current property owner and the Grantee shall be respectively entitled to compensation from the balance of the recovered proceeds as follows:

(a) The PACE Corporation shall receive from the net proceeds of the taking the higher of:

a. an amount equal to the Conservation Easement's current fair market value as determined by an independent appraisal satisfactory to the Commonwealth, or

b. an amount equal to the consideration originally paid for the Conservation Easement.

(b) In addition to the amount paid pursuant to Section VIII(B)(2)(a) above, the PACE Corporation shall also receive from the net proceeds of the taking an amount equal in current dollars to the full cost of acquiring and monitoring the Conservation Easement during its full duration, plus interest at the legal rate

on this amount.

(c) Any remaining proceeds received in connection with the taking shall be paid to the current property owner.

(2) Grantor shall be entitled to any remaining funds, if any, after payment to the PACE Corporation as set out hereinabove.

(3) The PACE Corporation shall place its portion of the proceeds from the eminent domain proceedings in the agricultural enhancement fund and use the proceeds consistent with the purposes of KRS 262.900 to 262.920.

VIII. INTERPRETATION

Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Conservation Easement:

(A) **Liberal Construction.** Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this Conservation Easement, and this instrument shall be interpreted broadly to affect its purpose and the transfer of rights and the restrictions on use herein contained.

(B) **Applicable Laws.** This Conservation Easement shall be interpreted under the laws of the Commonwealth of Kentucky, or federal law, as appropriate.

(C) **Authority.** This Conservation Easement is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Conservation Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their successors, and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement in existence either now or hereafter. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability of any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter thereof.

(D) **Compliance with Laws.** Nothing contained herein shall be interpreted to authorize or permit Grantors to violate any ordinance or regulation relating to building materials, construction methods, or use. In the event of any conflict between any such ordinance or regulation and the terms hereof, Grantors promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Conservation Easement and such ordinance or regulation.

(E) **Development Rights.** To the extent that Grantors is entitled to development rights which may exist some time hereafter by reason of the fact that under any applicable zoning or similar ordinance, the Property may be developed to use more intensive (in terms of height, bulk, or other objective criteria related by such ordinances) than the Property is devoted as of the date hereof, such development rights shall not be exercisable on, above, or below the Property nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the purpose of the Conservation Easement.

(F) **No Merger.** Grantee agrees to take whatever steps are necessary, consistent with the terms of this Conservation Easement, to ensure the viability of this Conservation Easement.

IX. AMENDMENT

Amendment. If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Grantors and Grantee may by written agreement amend this Conservation Easement, provided that no amendment shall be made that will adversely affect the qualification of this Conservation Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c) (3) of the Code and the laws of the Commonwealth of Kentucky. Any such amendment shall be consistent with the protection of the conservation and preservation values of the Property and the purpose of this Conservation Easement; shall not affect its perpetual duration; shall not permit additional residential development on the Property other than the residential development permitted by this Conservation Easement on its effective date; shall not permit any private inurement to any person or entity; and shall not adversely impact the overall agricultural and open space values protected by this Conservation Easement. Any such amendment shall be recorded in the land records of Logan County, Kentucky. Nothing in this paragraph shall require Grantors or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

THIS CONSERVATION EASEMENT is a complete statement of the agreement between the Grantors and the Grantee and supersedes any prior terms, representations, or agreements whether made orally or in writing.

IN WITNESS WHEREOF, Grantors have caused this instrument to be executed and delivered; and Grantee has caused this Conservation Easement to be accepted and executed by its duly authorized officer or agent, as of the day and year first herein above written. Upon execution, the Grantor and Grantee certify that there is no monetary consideration paid for the property herein conveyed and pursuant to KRS Chapter 382, the conservation easement value as determined by a state certified appraiser on behalf the Grantor is [REDACTED] and 00/100 dollars (\$ [REDACTED]). Furthermore, as an Acknowledgement of Condition, the Grantor and Grantee agree that in substance the baseline inventory is an accurate representation of the farm totaling [REDACTED] acres as shown in Exhibit A at the time of the execution of the

Conservation Easement. This inventory consists of Easement Baseline documents.

GRANTORS:

GRANTEE:

COMMONWEALTH OF KENTUCKY,
by and through the Finance and Administration Cabinet,
FOR THE USE AND BENEFIT OF THE
KENTUCKY DEPARTMENT OF
AGRICULTURE

By: _____
WILLIAM M. LANDRUM III, SECRETARY

COMMONWEALTH OF KENTUCKY
COUNTY OF _____

The foregoing instrument was acknowledged, subscribed, and sworn to before me this _____ day of _____, 2018, by _____ AND _____, husband and wife, as Grantors.

NOTARY PUBLIC

My Commission Expires: _____

COMMONWEALTH OF KENTUCKY

COUNTY OF FRANKLIN

The foregoing instrument was acknowledged, subscribed, and sworn to before me this _____ day of _____ 2018, by William M. Landrum III, Secretary of the Finance and Administration Cabinet of the Commonwealth of Kentucky, for the use and benefit of the Kentucky Department of Agriculture, a political subdivision of the Commonwealth of Kentucky created by KRS 262.900 to 262.920.

NOTARY PUBLIC

My Commission Expires: _____

THIS INSTRUMENT PREPARED BY:

Patrick McGee, Attorney
Finance and Administration Cabinet
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