

OHIO AGRICULTURAL EASEMENT PURCHASE PROGRAM

Deed of Agricultural Easement

Under the 2005 Cooperative Agreement between
The State of Ohio and The United States of America

This Deed of Agricultural Easement (hereinafter referred to as the "Easement") dated as of _____, 2006, is made and entered into by and between **(NAME OF LANDOWNERS/CORPORATION)** _____ residing at _____, (hereinafter referred to as the "Grantor") and the **DIRECTOR, OHIO DEPARTMENT OF AGRICULTURE**, 8995 East Main Street, Reynoldsburg, Ohio, 43068, (hereinafter referred to as the "State Grantee"), along with the _____ in _____ County, Ohio, (hereinafter referred to as the "Local Grantee"). Both the State Grantee and the Local Grantee listed above are hereinafter collectively referred to as the "Grantee," except when otherwise specified as the "State Grantee" or the "Local Grantee."

This is an agreement for the sale and purchase of an agricultural easement and the monitoring and enforcement of the Easement. Specifically, the State Grantee agrees to purchase the Easement from the Grantor for \$ _____ **(SPELL OUT DOLLAR AMOUNT and 00/100 Dollars)**, with funding assistance from the United States Department of Agriculture's Natural Resource Conservation Service. In addition, the Local Grantee agrees to monitor the property in perpetuity. The following provisions apply to this Easement:

A. Protected Property

Whereas, the Grantor is the owner in fee simple of approximately _____ acres of certain agricultural property located at _____, Ohio, _____, _____ Township, _____ County, (hereinafter referred to as the "**Protected Property**") more fully described on Exhibit A attached hereto and over which this Easement attaches. The Grantor has full authority to sell this Easement and has a good and indefeasible fee simple title to the land described in Exhibit A which is free and clear of all liens and encumbrances not conducive to agriculture.

B. Agricultural Value and Use

In particular, the Protected Property consists of land devoted exclusively to agricultural use as defined by Section 5713.30 of the Ohio Revised Code and is valued for real property taxation at its current value for agricultural uses under Section 5713.31 of the Ohio Revised Code, or that constitutes a homestead as defined by Section 901.21(A)(3) of the Ohio Revised Code. The Grantor has an interest in preserving the Protected Property for agricultural use.

C. Agricultural Practices

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary and to the extent that State appropriated funds are lawfully available, take appropriate legal action) to enforce the easement following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this easement based on an Act of Congress, NRCS will work cooperatively with the Grantor 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.

All farming operations shall be conducted in accordance with all applicable local, state and federal laws and regulations.

D. Qualified Organization

The Local Grantee is a qualified organization under Section 170 of the Internal Revenue Code, as amended from time to time, and under the regulations promulgated thereunder to receive conservation easements. Further, the State Grantee is authorized pursuant to Section 901.21 of the Ohio Revised Code to hold agricultural easements under the laws of the State of Ohio for the public purpose of retaining the Protected Property predominantly in agriculture.

Purchase of Agricultural Easement

Now, therefore, in consideration of the mutual promises, conditions, restrictions and obligations contained herein pursuant to the laws of the State of Ohio, Grantor grants with general warranty covenants to the Grantee a perpetual agricultural easement as defined in Section 5301.67(C) of the Ohio Revised Code, on the Protected Property. The Grantee has the authority to accept agricultural easements pursuant to Section 901.21(A) of the Ohio Revised Code. The Easement is subject to the following terms and conditions:

1. Statement of Purpose

It is the purpose of this Easement to assure that the Protected Property will be retained predominantly in agricultural use by preserving and protecting its agricultural soils as identified on Exhibit B – Present Condition Report and viability through a perpetual restriction on the use of the Protected Property.

2. State Agricultural Conservation Policy

2.1 State Farmland Preservation Programs - The United States Department of Agriculture's 2002 Census of Agriculture found that from 1950 to 2002 Ohio has lost 1/3

of its total agricultural lands. The State of Ohio has a clearly delineated conservation policy to preserve and promote agriculture and agricultural land for a significant public benefit. The Ohio Department of Agriculture is charged with the responsibility of protecting and promoting agriculture, including the preservation of Ohio's farmland by accepting agricultural easements in accordance with Section 901.21(B) of the Ohio Revised Code. By granting and accepting an agricultural easement over the Protected Property the Grantor and Grantee are furthering the State of Ohio's conservation policy to preserve and protect viable agricultural land. The Grantor intends that this Easement will confine the use of Protected Property, in perpetuity, to activities that are consistent with the purposes of the Easement. Ohio's policy to preserve and promote agriculture and agricultural land is further reflected in the enactment of the previously mentioned Section 901.21 and Section 901.22 of the Ohio Revised Code which allows, inter alia, the Director of the Ohio Department of Agriculture to acquire agricultural easements by gift, devise or bequest and to establish a procedure for awarding matching grants for the purchase of agricultural easements and provides that the Director shall monitor Ohio's agricultural easement program to evaluate its effectiveness and efficiency as a farmland preservation tool. Additionally, this policy is reflected in Section 901.54 of the Ohio Revised Code, which creates the Office of Farmland Preservation within the Ohio Department of Agriculture to actively preserve farmland and encourage and assist others in doing so. The grant of this agricultural easement is exclusively for the "conservation purpose" as that term is described in Section 170(h)(4)(A)(iii) of the Internal Revenue Code, which encourages the preservation of open space, including farmland and forest land. Ohio's agricultural conservation policy is consistent with a federal farmland preservation policy as reflected in the following Paragraph.

2.2 Federal Farmland Protection Program - The purpose of the Federal Farm and Ranch Lands Protection Program (FRPP) 16 U.S.C. 3838h and 3838i, is to protect prime, unique, or statewide and locally important soils or historic and archaeological resources on farmland from conversion to non-agricultural uses. The grant and acceptance of this agricultural easement is also pursuant to the clearly delineated federal conservation policy to preserve agricultural land as evidenced by this Act.

3. Present Condition Report

The Grantor and Grantee agree that the natural characteristics, the soil types, the physical conditions, the physical structures, and the agricultural use of the Protected Property at the time of this purchase are documented in a Present Condition Report (hereinafter referred to as the "Report") prepared by the Local Grantee and signed and acknowledged by the Grantor and a representative of the Local Grantee establishing the condition of the Protected Property at the time of this Easement conveyance, including photographs, maps and other documents, as set forth in Exhibit B.

4. Prohibited Uses/Restrictions

Any activity on or use of the Protected Property inconsistent with the purposes of this Easement is prohibited. The following activities are expressly prohibited, except as provided in Paragraph 5 below:

4.1 Industrial or Commercial Activity - There shall be no industrial or commercial activity undertaken or allowed on the Protected Property, except as provided for in Paragraph 5 below. No right of passage shall be granted or retained across or upon the Protected Property if that right of passage is used in conjunction with such prohibited activities.

4.2 Structures - There shall be no new structures or placing of any dwelling, building, athletic or recreational structure, landing strip, helicopter pad, fence or sign (other than those signs permitted, required or allowed by the Grantee for appropriate management, prevention of hunting or trespass, etc.), asphalt, concrete pavement, billboard or other advertising display, antenna, utility pole, telecommunication tower, tower, conduit line, or any other temporary or permanent structure or facility on the Protected Property, except as provided in Paragraph 5 below.

4.3 Agricultural Subdivision - The legal subdivision of the Protected Property, recording of a subdivision plan, partition, or any other division of the Protected

Property into two or more parcels, is prohibited, except a subdivision of the Protected Property is permitted only with the advance written permission of the State Grantee, who agrees that each separated parcel can stand alone as viable agricultural land. This prohibition applies regardless of how many separately described parcels are contained in the legal description attached as Exhibit A. If a Homestead Area exists or is ever established, which includes the residential dwelling and agricultural buildings as shown on the Report, it shall not be subdivided and shall remain a part of the Protected Property. In the event of subdivision, the terms of this easement shall be conveyed and recorded with the separate deeds.

4.4 Mining - Under no circumstances shall surface mining be permitted on the Protected Property. To the extent permitted under Section 170(h)(5) of the Internal Revenue Service Code and applicable Treasury Regulations, Grantor may undertake subsurface exploration, development and extraction of oil and gas. Upon completion of the subsurface oil and gas well activities, Grantor shall promptly restore any portion of the Protected Property affected thereby as nearly as possible to its condition existing prior to commencement of the subsurface oil and gas well activities. In addition, and to the extent permitted under Section 170(h)(5) of the Internal Revenue Service Code and applicable Treasury Regulations, Grantor may remove sand and gravel for normal farm use on the Protected Property. However, such removal is to be limited and located in such a manner so as to minimize the impact to prime and unique soils.

4.5 Topography - There shall be no ditching; draining; diking; filling; excavating; removal of topsoil, sand, gravel, rock, or other materials; or any change in the topography of the land in any manner, unless in accordance with the farm conservation plan for agricultural use on the Protected Property referenced in Paragraph C above.

- 4.6 Water - Grantor shall not transfer, encumber, lease, sell, or otherwise separate such water rights from title to the Protected Property itself.
- 4.7 Dumping - There shall be no new dumping of trash, non-compostable garbage, hazardous or toxic substances or other unsightly or offensive material, except as reasonably required for the use of the Protected Property in accordance with applicable local, state and federal laws and regulations.
- 4.8 Roads - There shall be no building of new roads, parking lots, or other paved surfaces, or the widening of existing such surfaces, except on the Homestead Area, local or state highway rights-of-way, and those improvements permitted under 5.12 below.
- 4.9 Impervious Surfaces - Impervious surfaces, including all residential and agricultural structures (with or without flooring), non-seasonal roof tops and paved areas, on the Protected Property shall not exceed 2 percent of the total easement acreage. For easements less than 50 acres, one acre of impervious surface area is permitted. NRCS approved Conservation practices that are installed on the Protected Property shall not count against the impervious surface limit.

5. Grantor's Reserved Rights

The Grantor reserves for himself, his heirs, successors and assigns, all rights and privileges of ownership of the Protected Property to use the Protected Property for all purposes that are not inconsistent with the purpose of this Easement and not expressly prohibited by this Easement. The following rights are expressly reserved by the Grantor:

- 5.1 Conveyance - Grantor may sell, give, mortgage, lease or otherwise convey the Protected Property, provided that such conveyance is subject to this Easement and written notice is provided to the Grantee in accordance with Paragraph 22 below.

- 5.2 Right to Farm - Grantor retains the right to farm, or to permit others to farm, in accordance with applicable local, state and federal laws and regulations and the conservation plan identified in Paragraph C.
- 5.3 Agricultural Education Programs - As a part of the agricultural activities of the farm, the Grantor reserves the right to conduct or authorize another party (individual or organization) to conduct educational programs and public field days on the Protected Property for the purpose of teaching about agricultural practices and promoting awareness of agriculture as long as it does not affect the agricultural values or status of the Protected Property.
- 5.4 Right to Privacy - Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Protected Property. Notwithstanding this provision, Grantee and NRCS shall have the right to inspect the Protected Property and enforce the provisions of this Easement in accordance with Recital C above and Paragraph 8.3 below.
- 5.5 Right to use the Protected Property for Customary Rural Enterprises - Grantor retains the right to use the Protected Property for otherwise lawful and customary rural enterprises, such as, but not limited to, processing, packaging and marketing of farm products primarily produced on the Protected Property; farm machinery repair; roadside market stands; and riding stables so long as these uses do not adversely affect the soils or agricultural values of the Protected Property.
- 5.6 Fences - Existing fences may be cleared, repaired and replaced, and new fences may be built on the Protected Property for purposes of trespass and reasonable and customary management of livestock and wildlife, without any further permission of the Grantee.

[Drafting Note: Select either Option A or Option B and DELETE both "Option" titles and the paragraph that was not selected.]

OPTION A:

5.7 Existing Personal Residence - Notwithstanding any other provision herein, Grantor may improve, maintain, repair, replace, and restore the existing single-family house and residence-related appurtenances such as attached or detached garages, septic systems, utilities, underground pipes and wires, or overhead wires in substantially their same locations within the existing *<insert size>* acre "Homestead Area" shown on the Report.

OPTION B

5.7 Existing Personal Residence - There is no existing personal residence on the Protected Property.

5.8 Agricultural Structures and Improvements - The existing agricultural structures and improvements may be repaired, enlarged and replaced at their current locations as shown on the Report, without any further permission from the Grantee. New buildings and other structures and improvements to be used predominantly for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the Protected Property, but not including any dwelling or farm labor housing, may be built on the Protected Property without any further permission of the Grantee. However, such construction shall be necessary for the operations and shall be sited so as to minimize impact to prime and unique soils.

5.9 Existing Recreational Improvements - All existing recreational improvements may be repaired or replaced at their current locations without further permission of the Grantee.

5.10 New Recreational Improvements - New personal recreational improvements may be built and existing personal recreational improvements may be reasonably enlarged for the Grantor's personal use within the area identified as the "Homestead Area" on the Report without further permission of the Grantee. Also,

any new personal recreational improvements or enlargements of existing personal recreational improvements proposed for locations outside the area identified as the "Homestead Area" on the Report may be built only with the advanced written permission of the Grantee. However, no new commercial recreational improvements are permitted anywhere on the Protected Property without the advance written permission of the Grantee. Permission will only be granted for de minimus personal recreational improvements or commercial recreational improvements upon a determination by the Grantee that such personal recreational improvements or commercial recreational improvements are not inconsistent with the goals of the Ohio Agricultural Easement Purchase Program and the soil-conservation purpose of this conservation easement deed.

5.11 Utility Services and Septic Systems - Installation, maintenance, repair, replacement, removal and relocation of electric, gas, geothermal, water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or under the Protected Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements permitted herein, and the right to grant easements over and under the Protected Property for such purposes, is permitted without further permission of the Grantee. Maintenance, repair or improvement of a septic system(s) or other underground sanitary system which exists on the Protected Property at the time of this Easement, or the construction of septic or other underground sanitary system for the benefit of any of the permitted improvements is permitted without further approval of the Grantee.

5.12 Paving and Road Construction - Construction of new roads, parking lots, or other paved surfaces, or the widening of existing such surfaces, are permitted outside the Homestead Area consistent with the agricultural purposes of this Easement with the advance written permission of the Grantee. The Grantee shall not give such permission, unless the Grantee determines that the proposed paving or covering of the soil, or the location of any such road, will not substantially

diminish or impair the agricultural values of the Protected Property and will be used for agricultural purposes.

- 5.13 Water - Grantor shall retain and reserve the right to use any appurtenant water rights necessary and sufficient to maintain the agricultural productivity of the Protected Property.

[Drafting Note: Select either the appropriate option and DELETE all "Option" titles and the paragraphs that were not selected.]

OPTION A (no new house):

- 5.14 New Personal Residences – Except as provided in Paragraph 5.7, no new houses or residence-related appurtenances are permitted on the Protected Property.

OPTION B (one new house with marked Homestead):

- 5.14 New Personal Residence - Notwithstanding any other provision herein but subject to the requirements of this Paragraph 5.14, the Grantor may construct, improve, maintain, repair, replace, and restore on the Protected Property one new single-family house with residence-related appurtenances such as attached or detached garages, septic systems, utilities, underground pipes and wires, or overhead wires. The Grantor must locate the new house and all of its residence-related appurtenances within the *<insert size>* acre "New Homestead Area" shown on the Report.

Although the Grantor need not obtain approval of the Grantee in order to exercise any reserved rights in Paragraph 5, unless otherwise stated herein, the Grantor hereby agrees to notify the Grantee in writing before exercising any reserved right which may have an adverse impact on the conservation of the agricultural values associated with the Protected Property.

6. Ongoing Responsibilities of Grantor and Grantee

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantor as owner of the Protected Property. Among other things, this shall apply to:

6.1 Taxes - The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Protected Property. If the Grantee is ever required to pay any taxes or assessments on its interest in the Protected Property, the Grantor will reimburse the Grantee for the same.

6.2 Upkeep and Maintenance - The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Protected Property, to the extent it may be required by local, state and federal laws and regulations. The Grantee shall have no obligation for the upkeep and maintenance of the Protected Property.

6.3 Liability and Indemnification - The Grantor agrees to indemnify, defend and hold the Grantee and the United States harmless for any and all claims or liability, including, but not limited to, reasonable attorney fees arising from personal injury, accidents, negligence, environmental contamination, or damage relating to the Protected Property or any claim thereof, unless due to the negligence of Grantee and the United States or their agents, in which case liability shall be apportioned accordingly.

7. Current Agricultural Use Valuation

Except for the homestead, the Protected Property is, as of the date of execution of this Deed, valued at its agricultural use for purposes of real property taxation, under Section 5713.31 of the Ohio Revised Code. Furthermore, the Grantor shall not fail to annually file a renewal application under Section 5713.31 of the Ohio Revised Code, unless Ohio law specifically exempts the Grantor from payment of real estate taxes on the land.

8. Grantee's Enforcement Rights and Remedies

In order to enforce the terms of this Easement, the Grantee shall have the following rights and remedies:

8.1 Remedies – In accordance with the provisions set forth in the Ohio Administrative Code §901-2-11, the Grantee shall have the right to enforce by proceedings at law or in equity the provisions of this Easement including, but not limited to, the right to require the restoration of the Protected Property to its condition at the date of the grant of this Easement, subject to the reserved rights of the Grantor set forth herein. The Grantee, or its successors or assigns, shall not waive or forfeit the right to take action as may be necessary to ensure compliance with the terms and conditions of this Easement by any prior failure to act. Nothing herein shall be construed to entitle the Grantee to institute any enforcement proceeding against the Grantor for any changes to the Protected Property due to causes beyond the Grantor's control, such as changes caused by fire, flood, storm, infestations, natural deterioration, the acts of third parties legally authorized to act by recorded document or other legally established rights or the unauthorized wrongful acts of third persons; provided, however, that the Grantor shall notify Grantee of any occurrence which would adversely affect or interfere with the agricultural purposes of the Easement, whether caused by the acts or omissions of the Grantor or third parties, or by natural occurrences.

8.2 Enforcement Costs – All reasonable costs incurred by the State Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by the Grantor. However, it is understood by the parties that if the Grantor ultimately prevails in a judicial enforcement action, the Grantee shall pay all reasonable costs; provided, however, that if the United States exercises its contingent right, which is described in Paragraph 17 of this Deed, this sentence

shall be of no effect. The State Grantee may request assistance from the Local Grantee in its effort to enforce the terms of this Easement

8.3 Right of Entry - The Grantee or its agents shall have the right to enter the Protected Property, in a reasonable manner and at reasonable times, for the purposes of:

8.3.1 Inspection of the Protected Property to determine if the Grantor, or his heirs, successors or assigns, is complying with the provisions of this Easement;

8.3.2 Obtaining evidence for the purpose of seeking judicial enforcement of this Easement;

8.3.3 NRCS, its successors or assigns, will have a right to access to the easement area to ensure conservation plan implementation and compliance.

9. Monitoring

The Local Grantee shall conduct at least an annual monitoring visit of the Protected Property verifying that the Grantor is in compliance with the terms and conditions of this deed, and shall submit an annual monitoring report, as provided by the State Grantee and the United States. If the Local Grantee determines the provisions of the deed are not being complied with and these violations cannot be resolved with the Grantor, then the Local Grantee shall notify the State Grantee of the alleged violation. The Grantees shall then determine if judicial action is necessary to enforce the deed, and shall assume responsibility for all necessary enforcement action in court. Notwithstanding any other provisions in this deed the State Grantee or the State Grantee's designee reserves the right to conduct an inspection of the Protected Property and enforce any violations of the deed.

10. Promotion

With the permission of the Grantor, the Grantee may post a sign(s) which states that the Protected Property is preserved by an agricultural easement.

11. Perpetual Burden

This Easement shall run with and burden the Protected Property in perpetuity and shall bind the Grantor and the Grantee, their heirs, successors and assigns.

12. Assignment

This Easement is in gross and may be assigned or transferred by the Grantee, in whole or in part, with the approval of the United States. The transferee or assignee will be required to carry out in perpetuity the agricultural purposes which this Easement was originally intended to advance. In addition, if the Grantor donated a portion of the agricultural easement value, the Grantee agrees to the following:

12.1 The organization or entity receiving this interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder and which is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, as that section may be amended from time to time, and in the regulations promulgated thereunder.

12.2 If the Grantee, or its assignee, ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law and if the United States declines to take title, a court with jurisdiction shall order the transfer of this Easement to another qualified organization that agrees to assume the responsibility imposed by this Easement.

13. Immediate Property Right

The Grantor agrees that this perpetual Easement gives rise to a property right, immediately vested in the Grantee, which is equal to the proportionate value of the

Protected Property as required by Section 901.22(A)(2)(b) of the Ohio Revised Code. The proportionate value is determined only if the Easement is ever extinguished in accordance with Paragraph 15 below. The United States will be paid its proportional share of the value of the conservation easement. The United States' proportional share of the value of the conservation easement interest is fifty (50)%.

14. Transfer of Protected Property

Unless this Easement is extinguished, as set forth below, the Grantor agrees that the terms, conditions, restrictions and purposes of this Easement will either be referenced or inserted by the Grantor in any subsequent deed or other legal instrument by which the Grantor divests himself of any interest in all or part of the Protected Property. The Grantor agrees to notify the Grantee, its successors and assigns, of any such conveyance in writing by certified mail within fifteen (15) days after closing.

15. Extinguishment of Easement

This Easement is intended to be in perpetuity. However, Ohio law allows for this Easement to be extinguished under the following situations:

15.1 At the request of Grantor and upon approval of the United States, Grantee may extinguish Easement if it is determined that an unexpected change in the conditions of or surrounding the land that is subject to the Easement makes impossible or impractical the continued use of the land for the purposes described in the Easement, as required by Section 901.22(A)(2)(a) of the Ohio Revised Code and Section 901-02-12 of the Ohio Administrative Code.

15.2 This Easement may be extinguished by judicial proceedings, as permitted by Section 901.22(A)(2)(a) of the Ohio Revised Code, and including extinguishment by eminent domain proceedings under applicable state or federal law, as permitted by section 901-02-12(J) of the Ohio Administrative Code. Due to its interest in the Protected Property, the United States must be notified of any proposed condemnation action.

15.3 At the joint request of the Grantor and Grantee and upon approval of the United States, a court with jurisdiction may extinguish this Easement if it determines that an unexpected change in the conditions of or surrounding the land that is subject to the Easement makes impossible or impractical the continued use of the land for the purposes described in the Easement, in accordance with Section 170(A)-14(g)(6)(ii) of the Internal Revenue Code.

The parties acknowledge that this agricultural easement is a real property interest that vests upon the recording of the Deed. Under Ohio law this easement constitutes an agricultural easement as defined and governed by Ohio Revised Code Sections 901.21 and 5301.67.

If this Easement is extinguished by the Grantee or by judicial proceeding, then upon the sale, exchange, or involuntary conversion of the land subject to the Easement, the Local Grantee shall be paid an amount of money that is at least equal to the proportionate value of the Easement compared to the total value of the land at the time this Easement was acquired, as required by Section 901.22(A)(2)(b) of the Ohio Revised Code and Section 901-01-13 of the Ohio Administrative Code. The United States will receive its proportional share of the easement, fifty (50)%.

Upon receipt of the proportionate value proceeds, the Local Grantee must remit to the Director of the Ohio Department of Agriculture an amount of money equal to the percentage of the cost of purchasing this Easement, as required by Section 901.22(A)(2)(c) of the Ohio Revised Code and Section 901-02-13 of the Ohio Administrative Code. Moneys received by the Director shall be credited to the Agricultural Easement Purchase Fund. The Director will promptly remit to the United States its proportional share of the cost of purchasing the easement set forth above from the value of the proceeds.

16. Hazardous Waste

The Grantor warrants that he has no actual knowledge of a release of a hazardous substance or toxic waste on the Protected Property as such substances or wastes are defined by applicable local, state and federal laws and regulations, and hereby promises to indemnify and defend the Grantee and the United States against, and hold the Grantee and the United States harmless from, any and all loss, cost, claim, liability or expense (including reasonable attorneys' fees) arising from or with respect to any release of hazardous waste or violation of environmental laws and regulations.

17. Contingent Right in the United States of America

In the event that the State of Ohio fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under state or federal law. In the event that the State of Ohio attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this easement or extinguish the conservation easement without the prior consent of the Secretary of the United States Department of Agriculture and payment of consideration to the United States, then, at the option of said Secretary, all right, title, and interest in this easement shall become vested in the United States of America.

18. Indemnification

Grantor shall indemnify, defend, and hold harmless Grantee and the United States from any liability resulting from Grantor's negligent acts, including, but not limited to, the release, use or deposit of any hazardous substance on the property.

19. Amendment of Easement

Grantee may amend this Easement only with the written consent of the Grantor and the United States. Any such amendment shall be consistent with the "Statement of Purpose" of this Easement and with the Grantee's Easement amendment policies and shall comply

with Section 170(h) of the U.S. Internal Revenue Code or any regulations promulgated in accordance with that Section. Any such amendment shall also be consistent with Section 5301.67 *et seq.*, of the Ohio Revised Code or any regulations promulgated pursuant to those laws. Any such amendment shall be duly recorded.

20. Re-Recording

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement; for such purpose, the Grantor appoints the Grantee his attorney-in-fact to execute, acknowledge and deliver any necessary instrument on his behalf. Without limiting the foregoing, the Grantor agrees to execute any such instruments upon request.

21. Definitions

The terms "Grantor" and "Grantee" as used herein shall be deemed to include, respectively, the Grantor, his heirs, successors and assigns, and the Grantee, its successors and assigns.

22. Notices

Any notices required by this Easement shall be sent by registered or certified mail, return receipt requested, to the State Grantee, the Local Grantee and the United States at the following addresses or such addresses as may be hereafter specified in writing:

State Grantee: Ohio Department of Agriculture, Office of Farmland Preservation, 8995 East Main Street, Reynoldsburg, Ohio 43068.

Local Grantee: [\[Insert contact name/address\]](#)

United States: USDA Natural Resources Conservation Service, 200 North High Street, Room 522, Columbus, OH, 43215.

23. Severability

If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

24. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussion, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. Originals and supporting documentation are on file in the Ohio Department of Agriculture, with a copy available on file with the Local Grantee.

25. Termination of Rights and Obligations

A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except the liability for acts or omissions prior to transfer shall survive transfer.

26. Modifications

This Easement may not be changed, modified or discharged except by a writing signed by the duly authorized representatives of the Grantor, the Grantee, and the United States.

27. Governing Law

This Easement shall be governed by and interpreted under the laws of the State of Ohio and applicable federal law. Except as otherwise specifically provided, all references to statutes and regulations that are contained in this Easement shall be construed to mean the version of that statute or regulation (as the case may be) in effect as of the date on which this Deed is recorded. Any action or proceeding arising out of the terms of this Easement shall be brought in a court of competent jurisdiction located in Franklin County, Ohio.

28. No Merger

If Grantee at some future time acquires the underlying fee title in the Protected Property, the interest conveyed by this Deed will not merge with the fee title but will continue to exist and be managed as a separate estate.

29. Recitals

The recitals shall be considered substantive terms of this Deed.

TO HAVE AND TO HOLD the above-described Agricultural Easement to the use, benefit, and behalf of the Grantee, Grantee's successors and assigns forever.

The Grantor(s)

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

Acknowledgement

State of Ohio

County of _____)ss.:

The foregoing instrument was acknowledged before me this _____ day of _____ 2006 by _____, who acknowledges that S/he/they did sign the foregoing instrument, and that the same is her/his/their free act and deed.

Notary Public

My Commission Expires:

Acceptance by State Grantee

OHIO DEPARTMENT OF AGRICULTURE

Fred L. Dailey, Director
Ohio Department of Agriculture

Acknowledgement

State of Ohio
County of _____)ss.:

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by Fred L. Dailey, the Director of the Department of Agriculture, acting for and on behalf of the State of Ohio, who acknowledged that he executed the same for and on behalf of that department and the State of Ohio and that he did so on his, the Department's and the State of Ohio's own free act and deed.

Notary Public
My Commission Expires:

Acceptance by Local Grantee

Local Grantee:

Signature: _____

Print Name: _____

Acknowledgement

State of Ohio
County of _____)ss.:

The foregoing instrument was acknowledged before me this _____ day of _____, 2006 by _____, acting for and on behalf of _____, State of Ohio, who acknowledged that they executed the same for and on behalf of that local jurisdiction and that they did so on their, the local jurisdiction's own free act and deed.

Notary Public
My Commission Expires:

Acceptance by The Natural Resources Conservation Service

The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed therein, on behalf of the United States of America.

Authorized Signatory for the NRCS

Acknowledgement

State of Ohio
County of _____)ss.:

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____, acting for and on behalf of the Natural Resource Conservation Service, who acknowledged that (s)he executed the same for and on behalf of that Agency and the United States of America and that (s)he did so on her/his, the department's and the State of Ohio's own free act and deed.

Notary Public
My Commission Expires:

This instrument was prepared by:
Ohio Department of Agriculture
Office of Farmland Preservation
8995 E. Main Street
Reynoldsburg, Ohio 43068