

**American Farmland Trust**  
**Agricultural Practices Management Plan – Sample Long-Form Language**

**Conservation Purpose Section:**

“The current and continued use of the Protected Property for agricultural purposes (as defined and permitted herein) and any permitted agricultural improvements are consistent with preserving and protecting in perpetuity the open space, scenic, natural habitat, shoreland, wetland, and other Conservation Values of the Protected Property. In furtherance of the preservation and protection of the agricultural and other Conservation Values, it is the mutual intention of Owner and Land Trust that the Protected Property be used and managed pursuant to a holistic, systems approach to agricultural production which protects and promotes the health of the agricultural and natural resources of the Protected Property (such as soil health, air and water quality, biodiversity, and habitat) and endeavors to maximize the environmental benefits from agricultural systems, rather than just reducing harms. Such approach is outlined in Section \_\_\_\_.”

**Agricultural Practices Management Plan Section:**

“Agricultural Practices Management Plan. All agricultural uses of the Protected Property shall be conducted in accordance with the terms of this Easement and pursuant to an Agricultural Practices Management Plan (the “Plan”) The Plan will encourage a holistic, ecosystems approach to the agricultural uses of the Protected Property.

(i) *Purpose.* The purpose of the Plan is to (i) preserve and protect the Conservation Values of the Protected Property; (ii) support and enhance the health of the agricultural soils to support the long-term usability and viability of the Protected Property and its ecosystem for agricultural uses; (iii) support and enhance the vitality and diversity of the ecosystem of the Protected Property and the broader ecosystem of which the Protected Property is part; and (iv) encourage the production or realization of ecosystem services, including improved water quality, soil health, and/or carbon sequestration.

In general, this Easement imposes certain negative covenants prohibiting uses and activities which are inconsistent with the Conservation Values of the Protected Property as of the grant of this Easement. In contrast, the Plan is intended to provide an affirmative obligation of the Owner to attempt to implement best agricultural management practices (as understood at the time the Plan is adopted or amended) and to the extent deemed advisable by the Owner and Land Trust. These practices, as implemented, are intended to, over time, (i) build and maintain soil health, conserve soils, and sequester carbon; (ii) reduced sedimentation; (iii) conserve and promote the efficient use of water and energy; (iv) reduce greenhouse gas emissions; (v) minimize waste; (vi) improve air quality; (vii) support biodiversity; (viii) minimize adverse impacts of agricultural chemicals to agricultural resources and the ecosystem; (ix) produce abundant healthy food; and/or (x) provide other ecosystem services. Ecosystem services means the many and varied benefits to humans provided by healthy ecosystems, including agroecosystems, forest ecosystems, grassland ecosystems and aquatic ecosystems. [NOTE: If you want to flesh out definition of ecosystem services, IUCN has defined ecosystem services as: "Ecosystem services [are] the benefits that nature provides to people. Ecosystem services include provisioning services such as firewood, fisheries, and raw materials; regulating services such as climate regulation, regulation of water flows, and water purification; and cultural services such as recreation, scenic values, spiritual values, or values that are important for cultural heritage or identity. Ecosystem services are

produced as a result of ecosystem processes and functions such as soil formation, nutrient cycling, and primary production."

(ii) *Minimum Considerations*. The Plan must not include any provisions inconsistent with the Conservation Values. In the event the Plan is interpreted so to conflict with this Easement, the Easement controls. The Plan will address, at minimum, the following: (i) agricultural soils management and enhancement; (ii) non-productive land, including field edges, wetlands, scrub and shrub areas, land under and around structures, access roads; (iii) weed/invasive and pest management; (iv) water resources, including soil water retention, irrigation water management, drainage management and improvement; (v) wildlife habitat and biodiversity; (vi) crop placement and rotation, as applicable to type of use; (vii) grazing management, as applicable to type of use; and (viii) forested areas.

(iii) *No Affirmative Use Required*. The Plan shall not require Owner to engage in agricultural uses on the Protected Property at any given time; however, the Plan shall address overall ecosystem health, weed management, soil health, and the promotion of the Conservation Values during such period the Protected Property is not actively used for agricultural uses.

(iv) *Development and Adoption of Initial Plan*. The Plan will be [developed by the Owner [and agricultural operator] in consultation with, and subject to approval of, Land Trust under the provisions of 7.6 of this Easement. Land Trust may rely on the approval or development of the Plan by a qualified technical service provider or local, state or federal government agency or similar entity][OR][developed by a qualified technical service provider or local, state or federal government agency or similar entity, in consultation with, and subject to the approval of, the Owner and the Land Trust][OR][developed by the Owner, in consultation with, and subject to the approval of, a qualified technical service provider or local, state or federal government agency or similar entity and The Land Trust][OR][developed by the Land Trust in consultation with and subject to the Owner].

[Owner has developed and Land Trust has approved a Plan dated \_\_\_\_\_, a copy of which is kept with Land Trust's records.][OR] [Owner will develop a Plan and submit the Plan to Land Trust for review as soon as reasonably practicable following the recording of this Easement.] A copy of the Plan as approved by Land Trust shall be kept with Land Trust's records. The Plan, and any subsequent update to the Plan, is, and shall be, incorporated herein by reference.

(v) *Amendment, Modification, or Update of the Plan*. The Land Trust and the Owner recognize that from time to time there may be a need to amend, modify, or update an approved Plan. Modification of an approved Plan may be requested by either the Owner or the Land Trust and must be approved under the provisions of section \_\_\_\_ of this Easement.

Modification of such plan may be requested for a variety of reasons, such as changing weather or climate conditions, changing market conditions, changes to the Owner's agricultural operations adjacent to the Protected Property, the need to economically improve the results of agricultural operations, and the need to prevent soil erosion or soil compaction or water pollution or other harm or threat to the Conservation Values of the Protected Property.

If any activities permitted by an approved Plan result in significant damage to the Conservation Values of the Protected Property, the Owner agrees to refrain from agricultural use in the affected area, modify the Plan or its execution (either, as approved by Holder) as is necessary to prevent further damage, and

to conduct all agriculture going forward in a manner consistent with protecting the Conservation Values and the Conservation Purpose of this Easement.

The Plan will be amended, modified, and updated by Owner [and agricultural operator] in consultation with, and subject to approval of, Land Trust under the provisions of 7.6 of this Easement. Land Trust may rely on the approval or development of the Plan by a certified technical service provider or local, state or federal government agency or similar entity. [Duplicate language from (iv) above regarding the process for developing the Plan for consistency.]

Owner and Land Trust shall at a minimum review and update the Plan every 10 years. In the event the ownership of the Protected Property or the agricultural operator should change, or in the event that it becomes necessary, advisable, or desirable that the agricultural practices on the Protected Property should change to address changes in agricultural uses and the evolution and/or protection of the Conservation Values, to include improved agricultural management practices, or otherwise, Owner and Land Trust agree that the Plan will be reviewed and updated as necessary, advisable, or desirable. Owner and Land Trust shall execute the Plan each time it is adopted or amended.

*(vi) Plan Baseline; Additional Minimum Standards or Practices.* Any revised Plan shall endeavor to result in equal or greater protection and preservation of the Conservation Values of the Protected Property and equal or greater ecosystem services than provided under any previous Plan. However, Owner and Land Trust recognize that changes in economic conditions, climate conditions, evolution of the Conservation Values, or other circumstances may warrant a temporary change in practices. Land Trust may, at the written request of Owner [and agricultural operator] temporarily suspend provisions of the Plan or approve less favorable practices which do not significantly impair the long-term protection of the Conservation Values to the extent such less favorable practices are necessary to maintain the economic and functional viability of the Protected Property for agricultural uses.

Owner and Land Trust may, but are not required to, establish in the Plan required minimum practices or standards for restricting or limiting the use of the Protected Property (beyond the minimum standards or practices required by the Easement) which, once implemented, may not be reduced, eliminated, or modified unless (a) the implemented practice or standard has failed to generate the desired ecosystem service through no fault of Owner [or agricultural operator]; (b) the implemented practice or standard has deteriorated or cannot be implemented fully or timely because of conditions beyond the reasonable control of Owner [or agricultural operator] and despite diligent efforts by of Owner [or agricultural operator]; (c) another practice or standard will generate the same quantity of ecosystem services; or (d) a change in, or exigent circumstances (economic, climate, or other) exist which in the reasonable discretion of Land Trust necessitate the reduction, elimination, or modification of the established minimum standards or practices, provided such reduction, elimination, or modification shall be for no longer than necessary to address or respond to such change in or exigent circumstances.

*(vii) Compliance with Plan; Financial Support.* Owner [and any agricultural operator] shall comply with the Plan. Land Trust may, but is not obligated to, offer technical support to Owner [or agricultural operator] to advance Owner's compliance with the Plan. Land Trust, may, but is not obligated to, compensate Owner [or agricultural operator] for any ecosystem services estimated to be produced or produced in connection with agricultural management practices implemented under the Plan.

*[(viii) Mediation.* Notwithstanding the provisions of \_\_\_\_ to the contrary, Owner and Land Trust agree that mediation offers an alternative to the expense and time required to resolve disputes by litigation.

Mediation is therefore the parties' preferred dispute resolution procedure solely with respect to the adoption, amendment, and the substantial or ongoing noncompliance with the Plan when circumstances do not require Owner or Land Trust to seek immediate injunctive relief from the courts. In the event of any dispute between Owner and Land Trust over the meaning, requirements, interpretation, or implementation of this Paragraph 3.3.c. or the Plan, then in effect, or any proposed amendment or update of the Plan, Owner or Land Trust may refer the dispute to mediation by written request served upon the other party. The non-requesting party shall have ten (10) days after receipt of a mediation request to consent thereto or to refuse to mediate the dispute.

(a) Procedure. Within ten (10) days after Owner and Land Trust agree to mediation of a dispute, the parties shall mutually select a mediator. Mediation hearings shall remain informal, with each party being permitted to present such facts and evidence as it may reasonably believe support that party's position. Costs and expenses of mediation shall be divided equally between Owner and Land Trust, excluding each party's legal fees.

(b) Limitations. Notwithstanding any provision to the contrary, the mediation procedure set forth herein shall in no way be construed to deprive Owner and Land Trust from any judicial remedies provided at law or by agreement herein, and is intended solely as an informal dispute resolution mechanism. Neither Owner nor Land Trust shall have the right to compel performance of mediated solutions, unless such solutions are reduced to a binding written Agreement between Owner and Land Trust at the conclusion of the mediation process.

The parties intend that each conflict and dispute submitted to mediation shall be unique, with facts, circumstances, and recommended resolutions to be determined on a case-by-case basis, without reference to prior conflicts, disputes, or the resolutions thereto.].