RCPP Programmatic Partnership Agreement Number:_____
RCPP Program Agreement Number: _____

Clear Form

PROGRAM AGREEMENT
between
USDA NATURAL RESOURCES CONSERVATION SERVICE (NRCS)
and the
[ELIGIBLE ENTITY or ENTITIES NAME(S)]
for the
REGIONAL CONSERVATION PARTNERSHIP PROGRAM
ENTITY-HELD EASEMENTS

This PROGRAM AGREEMENT is entered into by and between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation (CCC), and the [ENTER ELIGILBLE ENTITY or ENTITY NAMES] (hereinafter, whether singular or plural, **ENTITY**). NRCS and **ENTITY** are engaged in complementary and compatible activities related to purchasing conservation easements to secure the long-term protection of the specified conservation values of the land, such as benefits to soil, water, wildlife, agricultural land, and related natural resources. These activities are accomplished through the entity-held easement provisions of the Regional Conservation Partnership Program (RCPP). To accomplish these activities, financial and technical assistance may be provided by NRCS and **ENTITY**, whose assistance may include qualified contributions from others.

I. AUTHORITY

NRCS enters this PROGRAM AGREEMENT pursuant to and as a supplement agreement to the RCPP Programmatic Partnership Agreement ("the PPA") #_____, dated _____, by and between the USDA NRCS and the [Eligible Entity or name of Lead Partner on PPA if different than Eligible Entity] and under the authorities of the Commodity Credit Corporation Charter Act, 15 U.S.C. Section 714 et seq.; the Regional Conservation Partnership Program, subtitle I of title XII of the Food Security Act of 1985, as amended by the Agriculture Improvement Act of 2018, 16 U.S.C. Section 3871 et seq. This PROGRAM AGREEMENT will be administered in accordance with the policies and procedures set forth in the RCPP regulation (7 CFR Part 1464).

[ENTITY or ENTITIES NAME(s)] enters this PROGRAM AGREEMENT under the authorities of [Insert charter or statutory authority] .

II. BACKGROUND AND PURPOSE

RCPP is a voluntary conservation program that provides authority for NRCS and an eligible partner to collaborate on a project that addresses one or more resource concern categories in a project area. The purpose of this PROGRAM AGREEMENT is to supplement the PPA to establish the framework by which NRCS and **ENTITY** may implement the eligible activities necessary to acquire entity-held RCPP conservation easements (RCPP easement) that ensure the long-term protection of the specified conservation values on eligible land. The term "Parties" as used herein refers collectively to NRCS and **ENTITY.**

ENTITY has submitted an entity application for NRCS program assistance through RCPP and has been determined by NRCS to meet the statutory and regulatory requirements to participate in RCPP as an "eligible entity." **ENTITY** will carry out activities specified in this PROGRAM AGREEMENT by working with NRCS and eligible landowners to acquire RCPP easements on lands determined by NRCS to

NRCS Representative Initial_____

Entity Representative Initial _____

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be eligible for RCPP. The land on which an RCPP easement may be acquired is herein referred to collectively as "Parcels" or individually as "Parcel."

The Parties agree that the principal purpose of this PROGRAM AGREEMENT is to identify, describe, and document the Parties' acknowledgement and agreement of—

1. The roles and responsibilities of the NRCS and **ENTITY** related to the acquisition and long-term stewardship of entity-held RCPP easements.
2. The requirements and limitations for providing and receiving RCPP financial assistance funds (cost-share) and technical assistance services.
3. The procedures for executing and administering individual "RCPP Parcel Cost-Share Contracts" through which NRCS may provide RCPP cost-share assistance to **ENTITY** for the purchase of an RCPP easement on an individual Parcel.
4. The list of eligible entities that are party to this PROGRAM AGREEMENT and the designation of the eligible entities that will individually or collectively be party to individual RCPP Parcel Cost-Share Contracts entered into pursuant to this PROGRAM AGREEMENT.
5. The list of potential easement co-holders or third-party right holders that may be identified in an individual RCPP Parcel Cost-Share Contract and the associated RCPP conservation easement deed and the respective roles and responsibilities of such holders.
6. The Conservation Values, based on the conservation benefits and associated project resource concerns identified in the PPA, that must be specified in the terms of an RCPP easement acquired pursuant to this PROGRAM AGREEMENT.
7. Supplemental provisions to the framework established in this PROGRAM AGREEMENT included as an attachment to this PROGRAM AGREEMENT and used to identify additional specific requirements, procedures, roles, and responsibilities as agreed to by NRCS and **ENTITY**.

III. PROGRAM AGREEMENT AND ASSOCIATED RCPP PARCEL COST-SHARE CONTRACTS

A. This PROGRAM AGREEMENT will expire on the date identified below, which must be earlier or the same as the expiration date of the PPA. **ENTITY** may submit individual parcel applications to NRCS for RCPP cost-share assistance for the purchase of an RCPP Easement at any time during the life of the PROGRAM AGREEMENT. Individual parcel applications associated with this PROGRAM AGREEMENT and determined by NRCS to meet eligibility, enrollment, and prioritization criteria may be selected for funding by NRCS on a continuous basis or during announced signup and batching periods. In the event the PPA expiration date is extended, NRCS and the Entity may, in writing, mutually agree to extend this PROGRAM AGREEMENT to a date earlier or the same as the expiration date of the PPA

Program Agreement Expiration Date: [Enter Date not to exceed PPA expiration date]

B. RCPP cost-share assistance (Federal share) for individual Parcels selected for funding will be obligated and provided through individual RCPP Parcel Cost-Share Contracts (Parcel Contract) entered into by NRCS and **ENTITY** (see exhibit 3 of this agreement for sample Parcel Contract forms, these are provided for informational purposes, NRCS will provide the actual Parcel Contract forms appropriate for the specific transaction type prior to the execution of an individual Parcel Contract). Individual Parcel Contracts entered into pursuant to this PROGRAM AGREEMENT are assured of funding for the entire length of the approved Parcel Contract in accordance with the terms of the Parcel Contract

NRCS Representative Initial_____

Entity Representative Initial _____

and may continue beyond the expiration date of this PROGRAM AGREEMENT. A Parcel Contract may not be entered into after the expiration date of this PROGRAM AGREEMENT.

C. Each Parcel Contract may identify only one Parcel and will document the Parties' agreement to the Parcel-specific information as required in the Parcel Contract, which includes but is not limited to identifying: the Conservation Values that will be stated in the RCPP conservation easement deed; the level of restrictiveness of the RCPP easement as either "highly restrictive", "moderately restrictive", or "minimally restrictive"; whether the United States will acquire and hold a right of enforcement in the RCPP easement; and the transaction type.

D. The standard expiration date for all individual Parcel Contracts is March 31 of the third fiscal year following the fiscal year the Parcel Contract is executed. Prior to expiration of a Parcel Contract and upon mutual agreement of the Parties through the execution of a modification to an individual Parcel Contract, a maximum of two individual 12-month extensions may be approved. No Parcel Contract may extend beyond March 31 of the fifth fiscal year following the original fiscal year of the Parcel Contract execution.

E. Upon mutual agreement of the Parties through the execution of a modification to an individual Parcel Contract during its term, NRCS may allow the substitution of a Parcel at any time, provided that as determined by NRCS, the substitute Parcel and all of its landowners meet all RCPP eligibility requirements, the substitute Parcel is of comparable conservation value and is the same enrollment type as the original Parcel, and sufficient funds are available.

F. Upon modification, completion, expiration, termination, or cancellation of an individual Parcel Contract, the excess or remaining funds will be deobligated from the individual Parcel Contract.

G. Nothing in this PROGRAM AGREEMENT obligates NRCS or **ENTITY** to purchase an RCPP Easement on any Parcel submitted for funding.

IV. FEDERAL SHARE AND NON FEDERAL SHARE REQUIREMENTS AND LIMITATIONS

A. The fair market value of the RCPP Easement must be determined using an appraisal that meets the appraisal requirements set forth in section VI of this PROGRAM AGREEMENT. The resultant fair market value of the RCPP Easement will be identified in the individual Parcel Contract and used to establish the amount of the RCPP cost-share assistance that may be provided by NRCS as the Federal share and the corresponding non-Federal share amount provided by **ENTITY** for the individual Parcel as follows:

1. Entity-Held RCPP Easement with US Right of Enforcement.—The Federal share will not exceed the lesser of 50 percent of the fair market value of the RCPP Easement or the non-Federal share provided by **ENTITY**, as described in paragraph B below of this section IV. At the time of execution of this PROGRAM AGREEMENT, **ENTITY** must agree to provide, for each Entity-Held RCPP Easement that includes a US Right of Enforcement, a non-Federal share in an amount at least equivalent to the Federal share.
2. Entity-Held RCPP Easement with no US Right of Enforcement.—In the case of an RCPP Easement where the United States will not acquire a Right of Enforcement, the Federal share will not exceed 25 percent of the fair market value of the RCPP Easement and the non-Federal share provided by **ENTITY**, as described in paragraph B below of this section IV, must comprise the remainder of the fair market value of the RCPP Easement. At the time of execution of this PROGRAM

AGREEMENT, **ENTITY** must agree to provide for each Entity-Held RCPP Easement with no US Right of Enforcement, a non-Federal share that meets the requirements of this section IV.

B. The non-Federal share for an individual easement may be comprised of one or more of the following items:
   1. **ENTITY's** contribution of its own cash resources for payment of easement compensation to the landowner.
   2. A landowner donation toward the easement value in the form of a charitable donation or a qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) that reduces the easement purchase price.

C. On an individual Parcel basis, **ENTITY** must self-certify on the appropriate Form NRCS-CPA-1279, "Statement to Confirm Matching Funds" (see attached exhibit or successor form provided by NRCS), that **ENTITY**'s contribution of its own cash resources has not come from additional donations, payments, loans, or fees made by or charged to the Grantor (landowner) of the RCPP easement, immediate family members of the Grantor (landowner), or organizations controlled by or funded by the Grantor (landowner), either through formal or informal agreements. **ENTITY** must provide to NRCS a completed Form NRCS-CPA-1280 signed by **ENTITY** and the landowner prior to the closing of an RCPP easement, or an advance of the Federal share for the purchase of an RCPP easement, on the Parcel identified in an individual Parcel Contract. The appropriate version of the Form NRCS-CPA-1279 must be submitted and must identify the amount and sources of the items included in the non-Federal share.

V. PAYMENT OF RCPP COST-SHARE ASSISTANCE

A. In order to receive the Federal share for the purchase of an RCPP Easement on the Parcel identified in a valid Parcel Contract, **ENTITY** must meet the terms and conditions set forth in this PROGRAM AGREEMENT and the associated Parcel Contract and must provide to NRCS the items identified therein.

B. Pursuant to the terms of the individual Parcel Contract, **ENTITY** may request payment of the Federal share as reimbursement after closing or as an advance payment prior to closing of an RCPP Easement. If an advance of the Federal share will be requested, **ENTITY** must submit to NRCS a complete payment request package, including all required documents, prior to closing on the RCPP Easement.

VI. RESPONSIBILITIES

A. **ENTITY** Responsibilities:

   1. **ENTITY** will acquire and hold RCPP Easements on eligible land that has eligible landowners as identified in an individual Parcel Contract consistent with the requirements identified therein and consistent with the provisions of this PROGRAM AGREEMENT. **ENTITY** must be identified as a Grantee (holder) under the terms of the RCPP conservation easement deed.
   2. An RCPP conservation easement deed may also include legal entities that are co-holders (identified as Grantees in the easement deed) or third-party right holders (not identified as Grantees in the easement deed). Exhibit 1 to this PROGRAM AGREEMENT specifies the requirements, limitations, roles, and responsibilities of co-holders or third-party right holders. **ENTITY** must list

on exhibit 1 the legal entities that may be identified as a co-holder or third-party right holder on any RCPP conservation easement deed that may be acquired pursuant to a Parcel Contract executed under this PROGRAM AGREEMENT. **ENTITY** must list the specific co-holders or third-party right holders for an individual Parcel on the individual Parcel Contract and obtain any required signatures from a sufficiently authorized representative of the legal entity as follows:

i. All potential co-holders must be listed on and must sign exhibit 1 to this PROGRAM AGREEMENT and any individual Parcel Contracts for Parcels on which the co-holder will be identified in the RCPP conservation easement deed. **ENTITY** will list the potential co-holders and obtain required signatures on exhibit 1 at the time of execution of this PROGRAM AGREEMENT or through a subsequent amendment to this PROGRAM AGREEMENT to update exhibit 1, prior to the execution of an individual Parcel Contract or modification thereto that identifies the listed co-holder.

ii. **ENTITY** will list all potential third-party right holders on exhibit 1, as known at the time of execution of this PROGRAM AGREEMENT. An amendment to this PROGRAM AGREEMENT to update exhibit 1 is not required to list subsequently identified third-party right holders. All third-party right holders must be identified on the individual Parcel Contracts for Parcels on which the third-party right holder will be identified in the RCPP conservation easement deed. Third-party right holders may be required to sign exhibit 1 of this agreement or individual Program Contracts at **ENTITY** discretion.

3. **ENTITY** must maintain current registration in the Dun and Bradstreet Data Universal Numbering System (DUNS) and meet the System for Award Management (SAM) registration requirements or successor registry for the duration of this PROGRAM AGREEMENT and any active Parcel Contracts executed pursuant to this PROGRAM AGREEMENT. These DUNS and SAM registration requirements also apply to all legal entities identified as co-holders (Grantees) in exhibit 1.
4. The landowner is identified as the Grantor under the terms of the RCPP conservation easement deed. **ENTITY** must notify NRCS as soon as possible if there is a change in landownership after the individual Parcel Contract is executed and prior to closing on the easement. Changes to landownership that occur prior to closing on the RCPP easement must be documented through the execution of a modification to the Parcel Contract.
5. **ENTITY** must ensure that the RCPP easements acquired with RCPP cost-share assistance provided by NRCS through a Parcel Contract and the RCPP conservation easement deeds satisfy the requirements listed in items (i) through (xi) below and in paragraph (6) below:
   i. Are conveyed for the purpose of the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values as stated in the RCPP conservation easement deed (Exhibit 4 to this PROGRAM AGREEMENT provides the Conservation Values that may be identified in an individual RCPP easement acquired pursuant to this PROGRAM AGREEMENT).
   ii. Include terms that set forth the allowable uses, limitations on use, prohibitions, and specific protections at a level of restrictiveness that ensures RCPP easement will effectively protect the stated Conservation Values and accomplish the purposes for which the RCPP easement is being acquired. Include any additional provisions needed to address the attributes for which a parcel was ranked and selected for funding.
   iii. Include terms that set forth requirements related to the development, update, approval, and as applicable, enforcement, of the RCPP easement plan.

iv. Run with the land in perpetuity or where State law prohibits or does not authorize a permanent easement, for the maximum duration allowed under State law;
v. Provide for the effective administration, management, annual monitoring, and enforcement of the RCPP Easement by **ENTITY** or its successors and assigns; and
vi. Permit effective enforcement of the conservation purposes of such easements;
vii. Include an indemnification clause requiring the landowner to indemnify and hold harmless the United States from any liability arising from or related to the property enrolled in RCPP.
viii. Include clauses requiring that any changes to the easement deed or easement area made after easement recordation, including any amendment to the easement deed, any subordination of the terms of the easement, or any modifications, exchanges, or terminations of some or all of the easement area, must be consistent with the purposes of the RCPP conservation easement and must be approved by NRCS and the easement holder in accordance with 7 CFR Section 1464.32 and 7 CFR Section 1468.6 prior to recordation or else the action is null and void.
ix. Address the disposition of the RCPP easement and the Federal share in the event the RCPP easement is ever extinguished, terminated, or condemned in whole or in part;
x. For RCPP Easements in which the United States will hold a right of enforcement, include the US right of enforcement clause as set forth in the appropriate version of the RCPP Minimum Deed Terms addendum.
xi. For RCPP easements acquired pursuant to an RCPP PPA through an alternative funding arrangement (AFA), **ENTITY** must attach or incorporate the RCPP minimum deed terms as described in paragraph 6 to the RCPP conservation easement deed below or must address the minimum deed requirements provided as exhibit 5 to this PROGRAM AGREEMENT in its RCPP conservation easement deed.

6. **ENTITY** is authorized to use its own terms and conditions in the RCPP conservation easement deeds so long as the RCPP conservation easement deed contains the "RCPP Minimum Deed Terms" as stated in the appropriate version of the RCPP Minimum Deed Terms addendum. Prior to executing an individual Parcel Contract, **ENTITY** and NRCS, will determine which RCPP Minimum Deed Terms addendum is most appropriate to achieve the identified RCPP project purposes on a particular property. The RCPP Minimum Deed Terms addendum that must be used corresponds to the level of restrictiveness of the RCPP easement as identified in the individual Parcel Contract. The entirety of the RCPP Minimum Deed Terms addendum must be either executed and attached as an exhibit to the RCPP conservation easement deed or incorporated into the body of the RCPP conservation easement deed. **ENTITY's** own terms and conditions in the deed may not alter or defeat the intent, purpose, or effective enforcement by the Parties of the RCPP Minimum Deed Terms, RCPP, or the RCPP Easements acquired pursuant to this PROGRAM AGREEMENT.

   i. The terms of the RCPP Minimum Deed Terms addendum, whether attached as an exhibit to the RCPP conservation easement deed or incorporated into the body of the RCPP conservation easement deed, must not be modified except for appropriate formatting changes, selecting options, removing instructional provisions, and substituting, as needed, the defined terms for the RCPP conservation easement deed, baseline documentation report, Protected Property, and the Parties.

   ii. If the RCPP Minimum Deed Terms are attached as an exhibit to the RCPP conservation easement deed, the paragraph below, or equivalent paragraph contained in the version of the RCPP Minimum Deed Terms addendum attached as an exhibit to an individual Parcel Contract, is inserted at the bottom of the RCPP conservation easement deed:

RCPP Programmatic Partnership Agreement Number:_____
RCPP Program Agreement Number: _____

This Conservation Easement is acquired with funds provided, in part, under the Regional Conservation Partnership Program, (RCPP) (16 U.S.C. Section 3871 et. Seq. and 7 CFR part 1464). The EXHIBIT ____ is attached hereto and incorporated herein by reference and will run with the land [SELECT ONE: in perpetuity OR for the maximum duration allowed under applicable State law]. As required by the RCPP, and as a condition of receiving RCPP funds, all present and future use of the Protected Property identified in EXHIBIT_____ (legal description or survey) is and will remain subject to the terms and conditions described forthwith in this Addendum entitled RCPP Minimum Deed Terms in EXHIBIT_____ that is appended to and made a part of this easement deed. [INSERT IN RCPP EASEMENT DEEDS THAT INCLUDE THE US RIGHT OF ENFORCEMENT: The rights of the United States acquired under this Conservation Easement shall be unaffected by any subsequent amendments or repeal of the RCPP.]

iii. If **ENTITY**, chooses to incorporate the RCPP Minimum Deed Terms into the body of the RCPP conservation easement deed, then the terms in Section I and Section II of the RCPP Minimum Deed Terms addendum must be incorporated into the body of the Eligible Entity's RCPP conservation easement deed unmodified except as described in paragraph i above. In addition, the following paragraphs must be included in the RCPP conservation easement deed:

a. **[For RCPP Easements in which the United States will hold a right of enforcement, include the following in the Granting Clause after Grantor and Grantee]** *"and with a right of enforcement to the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC). The rights of the United States acquired under this [INSERT TERM FOR CONSERVATION EASEMENT] shall be unaffected by any subsequent amendments or repeal of the Regional Conservation Partnership Program (RCPP) (16 U.S.C. Section 3871 et seq. and 7 CFR part 1464)."*

b. **[Include in Recitals] "***This [INSERT TERM FOR CONSERVATION EASEMENT] is acquired with funds provided, in part, under the Regional Conservation Partnership Program (RCPP) (16 U.S.C. Section 3871 et seq. and 7 CFR part 1464). As required by the RCPP, and as a condition of receiving RCPP funds, all present and future use of the [INSERT TERM FOR EASEMENT PROPERTY] identified in EXHIBIT ___ (legal description or survey) is and will remain subject to the terms and conditions described in this [INSERT TERM FOR CONSERVATION EASEMENT] and will run with the land [**SELECT ONE:** in perpetuity **OR** for the maximum duration allowed under applicable State law]."*

c. **[Include in Recitals] "***The Regional Conservation Partnership Program (16 U.S.C. Section 3871 et seq.,) facilitated and provided funding for the purchase of this [INSERT TERM FOR CONSERVATION EASEMENT] to further the restoration, protection, enhancement, management, maintenance, and monitoring of **[IDENTIFY THE CONSERVATION VALUES HERE:** _____] on the Protected Property (the "Conservation Values"). The **[LANDOWNER NAMES]** (collectively*

NRCS Representative Initial_____

Entity Representative Initial _____

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*"Grantor"), the **[QUALIFIED ENTITY NAMES]** (collectively "Grantee"), and the **United States of America** (the "United States") and its assigns**,** acting by and through the United States Department of Agriculture ("USDA") Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation ("CCC") (jointly referred to as the "Parties") acknowledge that the [INSERT TERM FOR CONSERVATION EASEMENT] is acquired by the Grantee for the purpose of the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values (the "purposes of the Conservation Easement")."*

d. **[Include in Recitals or Body]** *"Baseline conditions of the [INSERT TERM FOR EASEMENT PROPERTY] Property are set forth in a Baseline Documentation Report, a copy of which is [**SELECT ONE:** appended to this easement deed **OR** maintained in the files of the Grantee]."*

iv. **ENTITY** must provide to NRCS a copy of the draft, unexecuted RCPP conservation easement deed and all exhibits, including the legal description, map or survey of the parcel, at least 90 days before the appraisal to determine the Fair Market Value of the easement is commenced. NRCS NHQ must review and approve each RCPP conservation easement deed prior to **ENTITY** requesting an advance of the Federal share or closing on an RCPP easement. If the RCPP conservation easement deed is substantively changed after the appraisal is completed, and those changes could potentially impact the fair market value of the easement, NRCS may require the **ENTITY** to obtain a new or supplemental appraisal based on the revised RCPP conservation easement deed. In addition to ensuring compliance with the requirements in Section VI(A)(5) and (6), NRCS NHQ will also review the deed to ensure that the Conservation Values in the RCPP conservation easement deed are consistent with the Conservation Values attached to this Program Agreement.

7. NRCS may require adjustments to the provisions identified in section VI(A)(5) above and require the addition of other provisions if NRCS determines that they are necessary to meet the purposes of the RCPP project as set forth in the PPA and protect the conservation values of the Protected Property.
8. **ENTITY** must perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid RCPP Easements.
9. **ENTITY** must pay all costs of RCPP Easement acquisition and must operate and manage each RCPP Easement in accordance with its easement program, this PROGRAM AGREEMENT, the terms of the individual Parcel Contract, 16 U.S.C. Section 3871 et seq., and 7 CFR Part 1464. NRCS will have no responsibility for the costs or management of the RCPP Easements purchased by **ENTITY**.
10. NRCS will not be responsible for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of **ENTITY** in connection with its acquisition or management of the RCPP Easements acquired pursuant to this PROGRAM AGREEMENT and associated, fully executed Parcel Contracts. This includes but is not limited to acts and omissions of **ENTITY** agents, successors, assigns, employees, contractors, or lessees that result in violations of any laws and regulations that are now or that may in the future become applicable.
11. **ENTITY** must prepare a baseline documentation report documenting the condition of each Parcel as of the time the RCPP Easement is acquired and include a completed baseline documentation report in the payment request package submitted to NRCS pursuant to the terms of the individual Parcel Contract. **ENTITY** must also provide NRCS a draft baseline documentation report at least

NRCS Representative Initial_____

Entity Representative Initial _____

90 days before the planned closing date of the RCPP Easement. The baseline documentation report must contain maps, full descriptions, and pictures of—

i. the Parcel location;
ii. existing structures and infrastructure, including utility lines, barns, sheds, corrals, fences, ponds, watering facilities, and waste storage facilities;
iii. land use, land cover and its condition, including as applicable, but not limited to, wetlands, crops and crop rotations or for grasslands, the condition of the grassland, pasture, range, hay or forest lands, and animal inventories;
iv. any problem areas;
v. any special features or resource concerns, including the Conservation Values, for which the Parcel is being protected;
vi. as applicable, irrigation rights and volume of irrigation water rights to be retained for the easement, and
vii. any critical nesting habitat and the associated nesting seasons for grassland-dependent birds whose populations are in significant decline.

12. **ENTITY** must ensure the completion of an RCPP easement plan for all RCPP easements that are highly restrictive (e.g., uses limited to protection of conservation values) or moderately restrictive (e.g., conservation use with compatible agricultural uses) and as required or agreed-to for RCPP easements that are minimally restrictive (e.g., agricultural use). The RCPP easement plan must:

i. Describe the Conservation Values and identify natural resource concerns on the Parcel.
ii. Describe the conservation activities, measures, practices, and land uses that may be implemented to restore, protect, enhance, maintain, manage, and monitor the Conservation Values, address the identified resource concerns, and promote the long-term viability of the land to meet the purposes of the RCPP easement.
iii. Identify, as applicable, permissible and prohibited activities and any associated restoration plans.
iv. Be comprised of the appropriate component plans based on the attributes of the Parcel and as specified in the terms of the RCPP conservation easement deed terms attached to the individual Parcel Contract.
v. For any portion of a Parcel that contains highly erodible cropland, include a highly erodible land (HEL) conservation plan that meets the requirements of 7 CFR Part 12 and is developed by NRCS or an NRCS-certified planner and approved by NRCS prior to closing.
vi. Be updated in the event the uses or ownership of the Parcel change.
vii. As specified in the terms of the RCPP conservation easement deed, be reviewed, approved, and signed by the landowner and **ENTITY**, and NRCS prior to easement closing and again upon subsequent revision after easement closing.

13. In acquiring RCPP Easements, **ENTITY** must ensure that the title to the lands or interests therein will be unencumbered or that outstanding or reserved interests are subordinated to the RCPP Easement. **ENTITY** and NRCS must review the title commitment to ensure there are no encumbrances that would allow uses of the property that are not acceptable to **ENTITY** or NRCS. **ENTITY** must provide NRCS a copy of the title commitment, including a copy of documents to support each title exception, a summary of **ENTITY** title review findings, and any other requested documentation related to title at least 90 days before the planned easement closing date. **ENTITY** must also identify and consider unrecorded interests in the Parcel to ensure there are no unrecorded rights, title, or interests in the property that are not acceptable to **ENTITY** or NRCS. Any exceptions to the requirement to remove or subordinate outstanding or reserved interests must be consistent

with this PROGRAM AGREEMENT, 16 U.S.C. Section 3871 et seq., and applicable regulations, and approved by NRCS and documented on Form NRCS-LTP-23, "Certificate of Use and Consent" (or successor form).

14. **ENTITY** must secure proper title evidence and insurance using an American Land Title Association (ALTA) Owner's Policy with **ENTITY** listed as the insured on the policy and the policy issued for at least the full amount of the RCPP Easement purchase price.
15. **ENTITY** must obtain a determination of the fair market value of the RCPP Easement for each Parcel at its own cost through an individual appraisal of the Parcel. Individual appraisals must be conducted by a State-certified general appraiser and must conform to the NRCS Appraisal Specifications provided as Exhibit 2 to this PROGRAM AGREEMENT and the Uniform Standards of Professional Appraisals Practices (USPAP). The effective date of the appraised value must be no earlier than 6 months prior to the date the individual Parcel Contract is executed for the individual Parcel, or no earlier than 6 months prior to the date the individual Parcel Contract is modified to identify a substitute Parcel, and prior to the closing date of the RCPP Easement.
16. **ENTITY** must provide the appraiser the NRCS appraisal specifications (Exhibit 2) and all of the items required to be provided by **ENTITY** as identified in the NRCS appraisal specifications. **ENTITY** must receive a separate appraisal report for each Parcel with an executed Parcel Contract. Under no circumstances may **ENTITY** allow the landowner to approve or disapprove of the appraiser selected to prepare the appraisal report. The landowner may not be listed as the client. **ENTITY** must provide NRCS a completed appraisal report at least 90 days before the planned closing of the RCPP Easement so that NRCS may conduct a technical review of the appraisal. **ENTITY** may not close the RCPP Easement until the technical reviewer, and, as applicable, NRCS, approves the appraisal report.
17. **ENTITY** may close on the RCPP Easement on a Parcel identified in the individual Parcel Contract, only after **ENTITY** has received the NRCS-signed Form NRCS-CPA-1279, "Statement to Confirm Matching Funds," and only after **ENTITY** has been notified that NRCS has completed its reviews as identified in section VI(B) below and has received from NRCS the "NRCS Approval to Proceed with RCPP Conservation Easement Acquisition" letter. If **ENTITY** closes an RCPP Easement prior to the receipt of these documents from NRCS, NRCS may decline to provide the Federal share for the RCPP Easement and may terminate the individual Parcel Contract. Due to Federal fiscal year-end accounting and reporting requirements, if possible, **ENTITY** should avoid closing on an RCPP easement between the dates of August 15 and September 30 and must notify NRCS immediately of any RCPP easements closed during this period.
18. **ENTITY** must provide NRCS a copy of the final recorded RCPP conservation easement deed and all exhibits, including the legal description or survey, a copy of the final policy of title insurance, and any associated title clearance documents (e.g. recorded subordination agreements), within 30 days of easement recordation or request for reimbursement, whichever is sooner.
19. **ENTITY** may not use RCPP funds to acquire an easement on a property in which **ENTITY**'s employee or board member, with decision-making involvement in easement acquisition and management matters, has a property interest or whose immediate family member or household member has a property interest. **ENTITY** agrees to conduct itself in a manner so as to protect the integrity of the RCPP Easements it holds and avoid the appearance of impropriety or actual conflicts of interest in its acquisition and management of RCPP Easements.
20. **ENTITY** may not at any time, when **ENTITY** holds title to the RCPP Easement, seek to acquire the remaining fee interest in the Parcel. Likewise, if **ENTITY** enters into an agreement with another entity to manage or monitor the RCPP Easement, and that entity seeks to acquire the underlying fee, **ENTITY** agrees to terminate immediately such agreement and arrange for an uninterested party to

manage or monitor the Parcel. No individual eligible entity identified in exhibit 1 to this PROGRAM AGREEMENT may at any time hold the RCPP easement and the remaining fee interest in the Parcel.

21. **ENTITY** must implement easement enforcement procedures when a violation of the RCPP Easement, or as applicable, the RCPP easement plan, is identified by or reported to **ENTITY**. **ENTITY** enforcement procedures resulting from a violation of an HEL conservation plan may only be initiated after all administrative and appeal rights have been exhausted by the landowner in accordance with 7 CFR Part 12 and 7 CFR Part 614.
22. **ENTITY** must submit a list of all successfully closed easements on Parcels funded through individual Parcel Contracts associated with this PROGRAM AGREEMENT within 30 days of the closing date of the last Parcel.
23. At a minimum, **ENTITY** must monitor every RCPP Easement on an annual basis to ensure and document compliance with the easement deed provisions and as applicable, RCPP plan provisions. If the United States holds a right of enforcement, **ENTITY** must submit to NRCS the annual monitoring report each year.
24. For the entire term of this agreement and any associated Parcel Contracts, nongovernmental organizations must continue to meet the requirements as an eligible entity pursuant to 7 CFR Section 1464.5 including meeting the definition of nongovernmental organization in 7 CFR Section 1468.3.
25. This paragraph and paragraphs 5, 9, 10, 11, 12, 18, 19, 20, 21, 22, and 23 of this section VI(A) will survive the closing of the RCPP Easement and the termination or expiration of this PROGRAM AGREEMENT.

B. NRCS Responsibilities:

1. The United States, by and through NRCS, will announce funding availability, application batching periods, publish ranking criteria, and select eligible applications for funding in accordance with published procedures.
2. NRCS will review Parcel applications submitted by **ENTITY**, determine land and landowner eligibility, rank eligible applications, obtain and review a hazardous materials record search, conduct onsite visits, and obligate funds for individual Parcels selected for funding through the execution of individual Parcel Contracts. NRCS will prepare the individual Parcel Contract documents or modifications thereto, for review and execution by all required Parties.
3. NRCS staff may provide their technical assistance to develop HEL conservation plans, and to the extent its resources allow, be available to assist **ENTITY** in the development of other components of an RCPP easement plan. NRCS review and approval of the RCPP easement plan prior to closing on the RCPP easement is required as set forth in the terms of the individual Parcel Contract.
4. After the required materials have been submitted by **ENTITY** and prior to closing on the RCPP Easement, NRCS will pursuant to the terms of this PROGRAM AGREEMENT and the individual Parcel Contract —

    i. Review the RCPP conservation easement deed and associated deed exhibits to ensure the requirements set forth in this PROGRAM AGREEMENT and the individual Parcel Contract are met and provide **ENTITY** any approval instructions or items requiring resolution;
    ii. Review the title documents submitted by **ENTITY**, complete a Form NRCS-CPA-23, "Certificate of Use and Consent" (or successor form), and provide the findings to **ENTITY** for information or remedy as necessary;
    iii. Conduct a technical review of the appraisal submitted by **ENTITY** and provide the findings to **ENTITY** for information or resolution as necessary;
    iv. Review the RCPP easement plan and identify any items for resolution to **ENTITY**;

v. Review the draft baseline documentation report provided by **ENTITY** and notify **ENTITY** if additional information is needed;
vi. Review and provide notice of determination on any waiver requests submitted by **ENTITY** in accordance with RCPP regulations and policy; and
vii. After NRCS reviews are completed and the materials are determined acceptable, provide **ENTITY** with an "NRCS Approval to Proceed with the RCPP Conservation Easement Acquisition" letter and the NRCS-signed Form NRCS-CPA-1279, "Statement to Confirm Matching Funds for RCPP."

5. If **ENTITY** requests an advance payment of the Federal share, NRCS will provide **ENTITY** a copy of the "NRCS Closing Agent Requirements" to be signed and returned to NRCS.
6. Prior to NRCS disbursement of funds, the NRCS State Conservationist will verify that **ENTITY** has provided all documentation, certifications, and information required by sections IV, V, and VI(A) above and as identified in the individual Parcel Contract. Additionally, NRCS will conduct an internal review of the payment request package in accordance with the terms of this PROGRAM AGREEMENT and the individual Parcel Contract and NRCS easement acquisition internal controls policy.
7. NRCS will certify payment and disburse funds, for Parcels with a valid, executed Parcel Contract when **ENTITY** has submitted all required documents and requested payment prior to the expiration date of the individual Parcel Contract and consistent with the requirements of this PROGRAM AGREEMENT and the terms of the Parcel Contract.
8. NRCS will review the annual monitoring reports provided by **ENTITY** to ensure monitoring is conducted annually and reports are sufficient and submitted to NRCS annually for every NRCS-funded conservation easement held by **ENTITY** in which the United States holds a right of enforcement.

VII. PUBLIC INFORMATION

A. **ENTITY** agrees to acknowledge NRCS cost-share assistance in any public outreach materials or events related to RCPP Easements acquired under the framework of this PROGRAM AGREEMENT and to provide draft copies of such information to the NRCS State office for review and comment before public release.

B. **ENTITY** agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under section 1244 of the Food Security Act of 1985 (16 U.S.C. Section 3844) and section 1619 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. Section 8791).

VIII. GENERAL PROVISIONS

A. It is the intent of NRCS to fulfill its responsibilities under this PROGRAM AGREEMENT and specific obligations made in any individual Parcel Contracts entered into pursuant to this PROGRAM AGREEMENT. However, NRCS may not make commitments in excess of funds authorized by law or made administratively available. If NRCS is unable to fulfill its responsibilities under this PROGRAM AGREEMENT or specific obligations made in any associated, valid Parcel Contracts because of the unavailability of funds, the affected Parcel Contracts will automatically terminate, and this PROGRAM AGREEMENT may also be terminated.

B. No assignment, in whole or in part, will be made of any right or obligation under this PROGRAM AGREEMENT without the joint approval of both NRCS and **ENTITY**. Nothing herein will preclude NRCS or **ENTITY** from entering into other mutually acceptable arrangements or agreements, except as

identified in section VI(A)(19) and (20) of this PROGRAM AGREEMENT. Such documents must be in writing, must reference this PROGRAM AGREEMENT, and must be maintained as part of the official PROGRAM AGREEMENT file.

C. This PROGRAM AGREEMENT may only be amended or modified by written amendment signed by the authorized officials of the NRCS and **ENTITY**.

D. **ENTITY** agrees to give the NRCS, the Office of the Inspector General, or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this PROGRAM AGREEMENT or any individual Parcel Contracts entered into pursuant to this PROGRAM AGREEMENT. **ENTITY** agrees to retain all records related to this PROGRAM AGREEMENT or associated Parcel Contracts, as applicable, for a period of three years after completion of the terms of this PROGRAM AGREEMENT, in accordance with the applicable Office of Management and Budget circular.

E. NRCS may terminate this PROGRAM AGREEMENT if NRCS determines that **ENTITY** has failed to comply with the provisions of this PROGRAM AGREEMENT or if it determines that it is in the best interests of the Federal Government to terminate.

F. If any recipient of Federal funds through the Parcel Contracts entered into pursuant to this PROGRAM AGREEMENT fails to comply with the terms and conditions of this PROGRAM AGREEMENT or such Parcel Contracts, NRCS reserves the right to wholly or partially recapture funds provided under such Parcel Contracts in accordance with applicable regulations.

G. Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions (7 CFR Part 1407, as applicable)

1. By executing this PROGRAM AGREEMENT, **ENTITY** certifies that, to the best of **ENTITY**'s knowledge and belief, **ENTITY** and his or her principals—
   i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
   ii. Have not had, within the 3-year period preceding this PROGRAM AGREEMENT, a criminal conviction or civil judgment rendered against them for commission of fraud in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local government) contract, including violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
   iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses set forth above in paragraph G(1)(ii) of this certification; and
   iv. Have not within the 3-year period preceding this PROGRAM AGREEMENT had one or more public contracts (Federal, State, or local) terminated for cause or default.
2. If **ENTITY** is unable to certify to any of the statements set forth in section VIII(G)(1) above, **ENTITY** must attach an explanation to this PROGRAM AGREEMENT. **ENTITY** must notify NRCS immediately if the circumstances supporting certification of any of such statements change or **ENTITY** may incur additional liability or penalties in accordance with applicable law.

H. Misrepresentation and Scheme or Device

1. An **ENTITY** who is determined to have erroneously represented any fact affecting a determination with respect to this PROGRAM AGREEMENT or any individual RCPP Parcel Cost-Share Contract executed pursuant to this PROGRAM AGREEMENT and the regulations applicable to such

PROGRAM AGREEMENT or associated Parcel Contract, adopted any scheme or device which tends to defeat the purposes of this PROGRAM AGREEMENT or associated Parcel Contract, or made any fraudulent representation with respect to this PROGRAM AGREEMENT or associated Parcel Contract, will not be entitled to payments or any other benefits made under any individual Parcel Contracts entered into pursuant to this PROGRAM AGREEMENT. **ENTITY** must refund to NRCS all payment received under affected Parcel Contracts executed pursuant to this PROGRAM AGREEMENT. In addition, NRCS may terminate **ENTITY**'s interest in all Parcel Contracts.

2. NRCS will charge interest on monies it determines to be due and owing to NRCS under this PROGRAM AGREEMENT or associated Parcel Contracts. Under debt collection procedures, unpaid bills accrue interest beginning 30 days after the billing date. The interest rate will be determined using the current value of funds rate, published annually in the *Federal Register* by the United States Department of the Treasury.
3. The provisions of this section VIII(H) above will be applicable in addition to any other criminal and civil fraud statutes.

XII. EXHIBITS

Exhibit 1 – Signature Page with List of Eligible Entities, and Potential Co-Holders and Third-Party Right Holders
Exhibit 2 – Appraisal – NRCS Specifications and Scope of Work for Appraisals of Real Property for the Conservation Easement component of RCPP
Exhibit 3 – Sample "RCPP Parcel Cost-Share Contract" for individual Parcel acquisition including:

a. Form NRCS-CPA-1276, "RCPP Entity-Held Easement Parcel Cost-Share Contract"
b. Form NRCS-CPA-1276-Appendix, "Appendix to the RCPP Parcel Cost-Share Contract"
c. Form NRCS-CPA-1277, Schedule of Acquisition for RCPP Entity-Held Easements
d. Form NRCS-CPA-1278, Modification of the Schedule of Acquisition for RCPP Entity-Held Easements

Exhibit 4 – Statement of Conservation Values
Exhibit 5 – RCPP Minimum Deed Requirements - AFA