

REGIONAL CONSERVATION PARTNERSHIP PROGRAM (RCPP)
CONSERVATION EASEMENT **(WITH U.S. RIGHT OF ENFORCEMENT)**
RCPP MINIMUM DEED TERMS FOR CONSERVATION USE WITH COMPATIBLE AGRICULTURAL
USES (MEDIUM RESTRICTIVE LEVEL)

These deed terms must be used only when the RCPP Conservation Easement will include a right of enforcement held by the United States (U.S. right of enforcement).

1) Insert the following provision directly into the RCPP Conservation Easement deed's introductory paragraph and recitals:

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).

2) This paragraph must be inserted at the end of the body of the RCPP-funded Conservation Easement deed:

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. The rights of the United States acquired under this Conservation Easement shall be unaffected by any subsequent amendments or repeal of the RCPP.

3) A fully executed copy of the Exhibit below must be attached to and recorded as part of the RCPP funded Conservation Easement deed at the time of closing.

EXHIBIT _____

RCPP MINIMUM DEED TERMS

The Regional Conservation Partnership Program (16 U.S.C. Section 3871 et seq.), facilitated and provided funding for the purchase of a Conservation Easement (“Conservation Easement”) on real property described in Exhibit _____ (*legal description or survey*), hereafter referred to as the “Protected Property,” 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 “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 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”). Decision making on behalf of NRCS is delegated to the Chief of NRCS or authorized designee (hereafter referred to as “Chief of NRCS”). Baseline conditions of the Protected 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*].

In order to ensure compliance with the Regional Conservation Partnership Program, 16 U.S.C. Section 3871 et seq. and 7 CFR part 1464, the following rule of interpretation will govern any and all inconsistencies between this Exhibit and other provisions of the Conservation Easement. Notwithstanding any other provision of the Conservation Easement, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Sections I and II. If the terms and conditions in Sections I and II are inconsistent with terms and conditions in other sections of the Conservation Easement, Sections I and II will control; however, if other sections of the Conservation Easement have terms and conditions that are consistent with, but more restrictive to the rights of the Grantor than the terms and conditions in Section I, Paragraphs 1, 3, 4, and 5 those more restrictive terms and conditions will control. If other sections of the Conservation Easement are more restrictive to the rights of the Grantor than Section I, Paragraph 2 and Section II, then Section I, Paragraph 2 and Section II will control.

SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of the Conservation Easement, and the restrictions and covenants of this Conservation Easement will apply to the Protected Property as a whole.

The terms and conditions of the Conservation Easement run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them

must comply with all terms and conditions of this easement, including the following:

1. RCPP Easement Plan. The Grantee shall prepare an RCPP Easement Plan in consultation with the Grantor and the Chief of NRCS. The RCPP Easement Plan shall describe the Conservation Values and identify natural resource concerns on the Protected Property and shall 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 Conservation Easement. The RCPP Easement Plan shall identify, as applicable, permissible and prohibited activities and any associated restoration plans.

[INCLUDE THE FOLLOWING IF THE CONSERVATION VALUES OF THE PROTECTED PROPERTY INCLUDE WETLAND, RIPARIAN, FLOODPLAIN (OR SIMILAR) HABITATS or NATIVE WILDLIFE SPECIES: The RCPP Easement Plan shall include a habitat management plan component that describes: the [INSERT IDENTIFIED HABITAT TYPES] resource and habitats, including associated habitats; the functions and values of each identified habitat; the management system and practices that restore, protect, enhance, manage, maintain, and monitor the viability of the identified resources and habitats; and as applicable, any species or sensitive natural resources requirements.]

[INCLUDE THE FOLLOWING IF THE CONSERVATION VALUES OF THE PROTECTED PROPERTY INCLUDE GRASSLAND (including SAVANNA, SHRUBLAND, OR SIMILAR) HABITATS: The RCPP Easement Plan shall include a grassland management plan component that describes the grassland resource; the management system and practices that restore, protect, enhance, manage, maintain, and monitor the viability of the grassland; and as applicable any habitat, species, or sensitive natural resources requirements.]

[INCLUDE THE FOLLOWING IF THE CONSERVATION VALUES OF THE PROTECTED PROPERTY INCLUDE FORESTED HABITATS: The RCPP Easement Plan shall include a forest management plan component that describes the management system and practices that restore, protect, enhance, manage, maintain, and monitor the viability of the forest land and as applicable, any significant conservation benefits. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee.]

[INCLUDE THE FOLLOWING IF PARCEL CONTAINS HIGHLY ERODIBLE CROPLAND: The RCPP Easement Plan shall include a conservation plan component that complies with 7 CFR part 12, or successor regulations, pertaining to all highly erodible cropland on the Protected Property. If the NRCS standards and specifications for highly erodible cropland are revised after the date of this Conservation Easement based on an Act of Congress, the Chief of NRCS will work cooperatively with the Grantor and Grantee to develop and implement a revised conservation plan.]

The RCPP Easement Plan is incorporated by reference and must not include any provisions inconsistent with the purposes of the Conservation Easement. The Grantee agrees to update the RCPP Easement Plan, in consultation with the Grantor and the Chief of NRCS, in the event the uses or ownership of the Protected Property change. The RCPP Easement Plan and any revisions thereto must be approved by the Grantor, Grantee, and NRCS. A copy of the current RCPP Easement Plan is kept on file with the Grantee.

The Grantee must take all reasonable steps to ensure that any activities conducted on the Protected Property are compliant with the RCPP Easement Plan. In the event of substantial or ongoing noncompliance with the RCPP Easement Plan or the requirement to update the RCPP Easement Plan, Chief of NRCS may notify the Grantee and Grantor. NRCS will give the Grantee and Grantor a reasonable amount of time, not to exceed 180 days, to

take corrective action. If Grantee fails to enforce requirements related to compliance with the RCPP Easement Plan, the United States may exercise its right of enforcement in accordance with Section II, Paragraph 5 below.

2. Allowed Uses. Allowed uses of the Protected Property include the following activities subject to the qualifications stated below:

(A) Conservation Activities. The right to conduct conservation activities, practices, measures and land uses as set forth in this Conservation Easement and the RCPP Easement Plan that further the restoration, protection, enhancement, management, maintenance, and monitoring of the Conservation Values, and are consistent with the purposes of the Conservation Easement.

(B) Other Uses. Any uses not specifically prohibited or restricted by this Conservation Easement.

[Include the following paragraph any time the property is in grassland use: (C) Grassland Uses of the Protected Property – Grantor is allowed to graze, hay, harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire presuppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of the Conservation Easement, the RCPP Easement plan, including the required grassland management plan component. The term “common grazing practices” means those practices customary to the region where the Protected Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Protected Property. Grantor must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline. Determinations of birds whose populations are in significant decline, nesting seasons for such birds, and the areas of the Protected Property affected by this restriction will be set forth within the Baseline Documentation Report and the RCPP Easement Plan.]

[Include the following paragraph any time the property is in forest use: (D) Forest Management and Timber Harvest – Forest management and timber harvesting is allowed, provided it is carried out, to the extent practicable, in accordance with the provisions and conservation purposes of the Conservation Easement, the RCPP Easement Plan, including the required forest management plan component, and current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property.]

3. Limitation on Impervious Surfaces. Impervious surfaces [**SELECT ONE: are prohibited on OR will not exceed 2 percent of**] the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this Conservation Easement.

[Include the following if limited impervious surfaces are not prohibited above and if subdivision is allowed below: In the event the Protected Property is subdivided as provided for in Section I, Paragraph 4(B), the total cumulative impervious surface of the subdivided parcels must not exceed the impervious surface limitation referenced above. The Grantor, with Grantee approval, will allocate the impervious surface limit among the

subdivided parcels and ensure said impervious surface limitation is clearly defined in each subdivided parcel's recorded instrument.]

4. Limitations on Uses. Any uses or activities that are inconsistent with the purposes of the Conservation Easement are prohibited. No uses will be allowed that violate Federal laws, including Federal drug laws, or that decrease the Conservation Easement's protection for the purposes of the Conservation Easement. The following activities are inconsistent with the purposes of the Conservation Easement and are specifically prohibited, subject to the qualifications stated below:

(A) *Agricultural Uses:* Agricultural use of the Protected Property is limited to those agricultural uses that restore or conserve the Conservation Values and must be conducted in a manner consistent with the terms of the Conservation Easement and the RCPP Easement Plan.

[May include the following paragraph for RCPP Enrollments that include Grasslands: *Except for grazing uses and grassland restoration and conservation, the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial nongrassland agricultural product is prohibited [Include the following if agricultural intensification may be permitted on RCPP Enrollments that include Grasslands: outside of the Designated Crop Cultivation Areas on the Protected Property, identified in Exhibit _____, the extent of such areas may not exceed [Insert Percent Not to Exceed 10 Percent] _____ percent of the Protected Property, the agricultural uses, location, and boundaries of which must be compatible with the purposes of the Conservation Easement and be approved in advance, in writing by the Grantee.]*

(B) *Subdivision – [Select Option 1, 2, or 3.]***[Additionally, where required by State law the following may be inserted at the end of the selected option:** *Notwithstanding the foregoing, subdivision of the Protected Property is permissible when necessary to comply with State or local regulations that explicitly require subdivision to construct residences for employees working on the Protected Property. Grantor must provide written notice and evidence of such requirements to Grantee and the Chief of NRCS, prior to division of the Protected Property in accordance with such State or local regulations.]*

[[Option 1] Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.]

[[Option 2] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than _____ separate parcels (____ divisions allowed), the boundaries of which have been identified in EXHIBIT ____, which is appended to and made a part of this Conservation Easement. To protect the Conservation Values, the boundaries of such divisions have been preapproved in writing by Grantee and the Chief of NRCS. Deviations from the identified boundaries will not be allowed. Grantor must give Grantee and the Chief of NRCS written notice prior to subdividing, dividing, or separately conveying a parcel of the Protected Property.]

[[Option 3] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than __ separate parcels (____ divisions allowed). To protect the Conservation Values, the boundaries

of such divisions must be approved in writing by Grantee and the Chief of NRCS before any such division, subdivision, or separate conveyance occurs. The Chief of NRCS may only approve the division, subdivision, or separate conveyance of the Protected Property into separately conveyable parcels when—

1. The Grantee requests the Chief of NRCS approval to subdivide the Protected Property into separate parcels, after receiving a request from the Grantor;
2. The Grantor certifies to the Chief of NRCS that the requested subdivision is required to protect the Conservation Values and that any new owners of the subdivided parcels intend to use such parcels for such purposes ; and
3. The Chief of NRCS determines that the Parcels resulting from the subdivision of the Protected Property will protect the Conservation Values.]

(C) *Industrial or Commercial Uses* – Industrial or commercial activities on the Protected Property are prohibited except for the following:

- (i) Uses consistent with the purposes of the Conservation Easement and conducted as described in the RCPP Easement Plan; and
- (ii) Temporary or seasonal outdoor activities or events that do not harm the Conservation Values.

(D) *Construction on the Protected Property* – Except as otherwise permitted in this **Section I, Paragraph 4(D)**, all structures and improvements must be located within the Building Envelope(s), [**Select One (FIXED OPTION):** *containing approximately _____ total acres and described or shown in EXHIBIT _____, which is appended to and made a part of this Conservation Easement. OR (FLOATING OPTION): of which there shall be no more than _____ Building Envelopes, containing no more than _____ total acres. The Grantor must receive prior written approval of the location and boundaries of the future Building Envelopes from the Grantee and the Chief of NRCS, following which, the Grantor and Grantee shall amend this Conservation Easement to add an exhibit that describes the approved boundaries and locations of the Building Envelope(s).*]

[**Alternately, if the Protected Property will have no Building Envelopes, replace the preceding sentences with the following:** *Except as otherwise permitted in this Section I, Paragraph 4(D), no structures or improvements, whether existing or in the future, may be constructed, replaced, or enlarged on the Protected Property.*]

[**Include the following subparagraph if future adjustments to approved Building Envelopes may be considered:** *The identified boundaries and locations of the approved Building Envelope(s) may be adjusted only with prior written approval from the Grantee and the Chief of NRCS. The adjusted Building Envelope(s) may not be larger than the approved Building Envelope(s) and must provide equal or greater protection of the Conservation Values. Following receipt of written approval to adjust identified Building Envelope(s), the Grantor and Grantee shall amend this Conservation Easement to add an exhibit that describes the subsequently approved boundaries and locations of the Building Envelope(s).*]

Utilities that serve approved buildings or structures allowed in this **Section I, Paragraph 4(D)**, that neither individually nor collectively have an adverse impact on the Conservation Values, may be located outside of the Building Envelope(s) with prior written approval of the Grantee.

Construction of new roads on the Protected Property [**SELECT ONE: is prohibited OR may be authorized only if such construction is approved in advance by Grantee, is within impervious surface limits, and is consistent with the purposes of the Conservation Easement or necessary to carry out the allowed uses on the Protected Property.**]

Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and is consistent with the purposes of the Conservation Easement or necessary to carry out the allowed uses on the Protected Property.

Fences may be maintained and replaced, and new fences installed if they are necessary to achieve the Conservation Values, necessary to carry out the allowed uses on the Protected Property, or to mark boundaries of the Protected Property. Maintenance, replacement, and installation of fences must be conducted in a manner consistent with the purposes of the Conservation Easement.

(E) Granting of Easements for Utilities and Roads – The granting or modification of easements for utilities and roads is prohibited unless specifically authorized in writing in advance by the Grantee, in consultation with the Chief of NRCS. Authorization for such activity may only be provided if the Grantee, in consultation with the Chief of NRCS, has determined the utility or road is consistent with protecting and maintaining the Conservation Values and such authorization may be subject to terms and conditions Grantee determines are necessary to ensure the viability of the Conservation Values.

(F) Surface Alteration – Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, wetlands, or the Conservation Values of the Protected Property is prohibited, except for the following activities which may be authorized if the activity will further the purposes of the Conservation Easement, as determined by the Grantee:

- (i) Dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation;
- (ii) Erosion and sediment control;
- (iii) Soil disturbance activities required in the maintenance or construction of approved buildings, structures, roads, and utilities;
- (iv) Draining, dredging, channeling, leveling, pumping, diking, impounding, or related activities;
- (v) Diverting or causing or permitting the diversion of surface or underground water into, within, or out of the Protected Property;

(vi) Altering of habitats or other natural features by burning, digging, plowing, disking, cutting, or otherwise destroying the vegetative cover;

(vii) [**Select all that apply:** *Agricultural activities, Grazing uses or grassland restoration, forest land uses or forest restoration*] and related conservation activities conducted in accordance with the terms and conditions of this Conservation Easement and the RCPP Easement Plan.

Such activities must be conducted in a manner consistent with the RCPP Easement Plan and pursuant to terms and conditions approved by the Grantee in advance and in writing. Such terms and conditions must prescribe the technical limitations and requirements of the activities, such as the amount, method, location, frequency, timing, intensity, and duration, and may be set forth in the RCPP Easement Plan itself or a separate plan specific to the activity.

(G) Surface and Subsurface Mineral Exploration and Extraction –

Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this Conservation Easement or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from the Protected Property is prohibited [**Include the following if either of the optional mineral extraction options below are used: except as otherwise provided in this Paragraph (G).**]

If a third party owns or leases the oil, natural gas, or any other mineral rights associated with the Protected Property prior to the time this Conservation Easement is executed, and their interests have not been subordinated to this Conservation Easement, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this Paragraph (G). Any mineral leases or other conveyances of minerals entered into or renewed after the date of this Conservation Easement are subordinate to the terms of this Conservation Easement and must incorporate by reference this Conservation Easement.

[**Include the following subparagraph if a limited allowance for agricultural purposes may be authorized:** *Limited mining activities for materials (e.g., sand, gravel, or shale) used to facilitate the agricultural operations on the Protected Property are allowed where the extraction of such materials is limited, localized, and small with a defined area and acreage [SELECT ONE: identified in EXHIBIT _____ OR approved prior to extraction by the Grantee, not to exceed _____ acres,] and does not harm the Conservation Values.*]

[**The following may be inserted to qualify the above if Grantee chooses to allow subsurface mineral development as an alternative to a complete prohibition on mineral exploration and extraction on the Protected Property – Beginning of Optional Additional Subsurface Mineral Development Language:** *Subsurface mineral development on the Protected Property is allowed in accordance with this Paragraph (G), if approved by Grantee and Chief of NRCS. Grantee and Grantor must demonstrate prior to the initiation of mineral development activity that such subsurface mineral development shall—*

(i) *Be conducted in accordance with applicable State law;*

- (ii) *Have a limited and localized impact;*
- (iii) *Not harm the Conservation Values;*
- (iv) *Not materially alter or affect the existing topography, as determined by Grantee and the Chief of NRCS;*
- (v) *Comply with a subsurface mineral development plan that includes a plan for the remediation of impacts to the Conservation Values, which includes reclaiming and restoring all areas of the Protected Property that are impacted by the subsurface mineral development and such plan is approved by Grantee and the Chief of NRCS prior to the initiation of mineral development activity;*
- (vi) *Not be accomplished by any surface-mining method;*
- (vii) *Be within the impervious surface limits described in Section I, Paragraph 3; and*
- (viii) *Use practices and technologies that minimize the duration and intensity of impacts to the Conservation Values.*

All areas of the Protected Property that are impacted by subsurface mineral development pursuant to this section must be reclaimed and restored within a reasonable time, as determined by the Grantee and Chief of NRCS, at cessation of subsurface mineral development activities.

*Impervious surfaces, as defined in Section I, Paragraph 3, include any surface disturbance or impervious surfaces associated with subsurface mineral development allowed by this paragraph. **End of Optional Additional Subsurface Mineral Development Language]***

5. Prohibitions. The following activities are expressly prohibited on the Protected Property:

- (A) Accumulating or dumping refuse, wastes, sewage, or other debris.
- (B) Use of the Protected Property for developed recreation. These uses include but are not limited to sports fields, camping facilities, recreational vehicle trails and tracks, sporting clay operations, skeet shooting operations, firearm range operations, and the infrastructure to raise, stock, and release captive raised waterfowl, game birds and other wildlife for hunting or fishing.
- (C) Any activities to be carried out on the Grantor's land that is immediately adjacent to, and functionally related to, the Protected Property if such activities will alter, degrade, or otherwise diminish the Conservation Values of the Protected Property.
- (D) The installation or use of fences which have the effect of preventing wildlife access and use of the Protected Property located on the Protected Property or on the Grantor's land that is immediately adjacent to, and functionally related to, the Protected Property.
- (E) Use of motor vehicles except as necessary to carry out allowed uses on the Protected Property.
- (F) Any additional prohibited activities set forth in the RCPP Easement Plan.

SECTION II – PROTECTION OF THE UNITED STATES' INTERESTS AND EASEMENT ENFORCEMENT

1. General Disclaimer and Grantor Warranty. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or

Grantor's breach of any representation, warranty, covenant, or agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws (defined below) including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

Grantor must indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which United States may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed or violations of any Federal, State, or local laws, including all Environmental Laws.

2. Environmental Warranty. Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of an undisclosed release or threatened release of Hazardous Materials (defined below), as such substances and wastes are defined by applicable Federal and State law.

Furthermore, Grantor warrants the information disclosed to Grantee and United States regarding any past violations or noncompliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee on the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

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

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

3. Extinguishment, Termination, and Condemnation. The interests and rights under this Conservation Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this Conservation Easement, any proposed extinguishment, termination, or condemnation action that may affect the United States’ interest in the Protected Property must be reviewed and approved by the United States.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the Conservation Easement is _____ percent, hereinafter the “Proportionate Share,” of the fair market value of the land unencumbered by this Conservation Easement. The Proportionate Share will remain constant over time.

If this Conservation Easement is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this Conservation Easement. The fair market value will be determined at the time all or a part of this Conservation Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, [**Calculate and enter the percent of fair market value of the Conservation Easement provided based on the sum of the Grantee’s contributions and Grantor donations toward the acquisition value of the easement**] _____ percent of the Proportionate Share; and (b) to the United States _____ percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor’s successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

4. Amendment. This Conservation Easement may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of the Conservation Easement and complies with all applicable laws, regulations, and program policy. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended Conservation Easement, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.

5. United States Right of Enforcement. In consideration of the RCPP funds received for the acquisition

of this Conservation Easement, the United States is also granted this right of enforcement that it may exercise only if the terms of the Conservation Easement are not enforced by the holder of the Conservation Easement. The Secretary of the United States Department of Agriculture (the Secretary) or the Secretary's assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor up to the amount of the United States contribution to the purchase of the Conservation Easement.

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the Conservation Easement and RCPP Easement Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has a reasonable and articulable belief of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the Conservation Easement and the RCPP Easement Plan, the United States will have reasonable access to the Protected Property. Prior to its inspection of the Protected Property, the United States shall provide advance notice to Grantee and Grantor and provide Grantee and Grantor a reasonable opportunity to participate in the inspection.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of this Conservation Easement and will give notice to Grantee and Grantor at the earliest practicable time.