

DEED OF CONSERVATION EASEMENT

This Conservation Easement is made this ___ day of _____, 2011, by (insert name)(insert name) (“Donor”), in favor of the Three Valley Conservation Trust (“Donee”), an Ohio not-for-profit corporation, having an address of 5920 Morning Sun Road, Oxford, Ohio, 45056.

Whereas, Donor is the sole owner, in fee simple, of certain real property located at (insert township)(insert address), (insert township) Township, Butler County, Ohio, 45056 containing approximately (insert acres), and more particularly described in “Exhibit A: Legal Description” attached hereto and incorporated by reference (the “Property”); and

Whereas, the Property possesses value as open space; comprising of {increasingly uncommonly diverse, natural landscapes, wildlife habitat and environmental systems; and prime agricultural soils (all such values hereinafter referred to as “Conservation Values”), and these Conservation Values are of great importance to Donor, the people of Butler County, and the people of the State of Ohio; and

Whereas, the specific Conservation Values of the Property are documented in an inventory of relevant features of the Property, dated September 12, 2008, updated on May 26, 2011 and on file at the office of Donee, and incorporated by reference (“Baseline Documentation Report”), which consists of reports, maps, photographs and other documentation that Donor and Donee hereby agree do provide, collectively, an accurate representation of the Property at the time of this donation and which is intended to serve as an objective information baseline for annual monitoring compliance with the terms of this Easement; and

Whereas, Donor intends that the Conservation Values be preserved and protected in perpetuity by the continuation of compatible land-use practices; and

Whereas, Donor further intends to convey to Donee the right and duty to preserve and protect the Conservation Values in perpetuity; and

Whereas, Donee is a publicly-supported, tax-exempt not-for-profit organization, qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and /or open-space condition; and Donor agreed to restrict the use of the Property as set forth in this Conservation Easement, with the intent that such restrictions run with the land.

Whereas, the Property is located in the Indian Creek Watershed, and has substantial value as a scenic, natural, aesthetic, and educational resource in its present state as a natural and wooded area as habitat for fish, plants and wildlife, and is of significant value in conserving and protecting the physical, biological and chemical integrity of the Indian Creek Watershed, and is important in the protection of the existing or designated use of the waters of the state pursuant to §303 of the Clean Water Act, 33U.S.C.§1313 and §6111.041 of the Ohio Water Pollution Control Act. The specific conservation values have been documented in the baseline Documentation Report, which consists of maps, reports, photographs, descriptions of prominent vegetation, land use history, and distinct natural features characterizing the Property at the time of the recordation of this Conservation Easement, and is intended to serve as objective information baseline for annual monitoring compliance with the terms of this Conservation Easement.

Whereas, Donee, by accepting this Easement, hereby agrees to honor and defend the intentions of Donor to preserve and protect in perpetuity the Conservation Values for the benefit of this generation and all generations to come;

Now, Therefore, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Donor and Donee hereby agree as follows:

- 1. Donation of Conservation Easement.** Pursuant to the laws of the State of Ohio, and in particular Sections 5301.67 through 5301.70 of the Ohio Revised Code, Donor hereby voluntarily donates and conveys to Donee, a Conservation Easement (“Easement”) in perpetuity over the Property of the nature and character and to the extent hereinafter set forth.
- 2. Purpose of Easement.** It is the purpose (“Purpose”) of this Easement to assure that the Conservation

Values will be perpetually maintained and preserved and that the Property will forever be retained in an undivided and predominantly open-space, agricultural and/or natural condition, except as otherwise stipulated in this instrument; and to prevent activities and uses of the Property that impair or depreciate the Conservation Values or are otherwise inconsistent with the terms of this instrument. The Conservation Values of this Easement are both open space and agricultural. Open space values specifically include a diverse wildlife habitat, relatively pristine large section of a mature interior hardwood forest, with diverse and some rare native wildflowers, hydrological function of headwaters and water flow and retention, the core of what is known as the “Big (insert township) Woods,” and a healthy and biologically important section of Little Indian Creek. Agricultural values include prime soils.

Zones or Use Areas

The property is divided into 3 zones or use areas, generally described as follows (see Exhibit B, attached):

- a) The **Residential Area**, including an existing homestead at _____ (insert township) Rd. comprising the house, garage and associated outbuildings consisting of 2 acres and marked as “Homestead” on Exhibit B.,
- b) **Agricultural areas** fields comprising approximately ___ acres?.
- c) **Natural areas** comprising woodland, riparian habitat, comprising approximately ____acres?.

3. Rights of Donee. In order to accomplish the Purpose of this Easement, Donor conveys the following rights to Donee:

3.1 Right to Mark Boundaries and Post Signage Donee has the right to clearly mark the boundaries of the Property and to place on the Property signs which identify the land as protected by this Easement. The number, location, and physical characteristics of any boundary markers and signs are subject to the approval of Donor (or subsequent owner).

3.2 Right to Enter Donee has the right to enter upon the Property in order to monitor compliance with, and enforce, the terms of this Easement, provided that such entry shall be upon prior reasonable notice to Donor (or subsequent owner), and that Donee shall not unreasonably interfere with Donor’s (or subsequent owner’s) use and quiet enjoyment of the Property.

3.3 Right to Preserve and Enforce Donee has the right to prevent any activity on, or use of, the Property that is inconsistent with the Purpose of this Easement or detrimental to the Conservation Values, and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use by Donor (or subsequent owner). As a condition of accepting this Easement, Donee hereby agrees to use due diligence in enforcing the terms of this Easement. Donee’s remedies are cumulative and any or all of the remedies described in this section may be invoked if there is an actual or threatened violation of this Easement by Donor (or subsequent owner).

3.3.1 Notice and Demand. If Donee determines that Donor (or subsequent owner) is in violation of this Easement, or that a violation is threatened, Donee shall provide written notice of such violation to Donor (or subsequent owner). The written notice shall identify the violation and request corrective action within ten (10) days after receipt of such notice to cure the violation and, where the Property has been injured by Donor (or subsequent owner), to restore the Property. However, if at any time Donee determines, at its sole discretion, that the violation constitutes immediate and irreparable harm, no written notice is required. Donee may then immediately pursue its remedies to prevent or limit harm to the Conservation Values. If Donee determines that this Easement is, or is expected to be, violated, or Donee’s good-faith and reasonable efforts to notify Donor (or subsequent owner) are unsuccessful, Donee may pursue its lawful remedies to mitigate or prevent harm to the Conservation Values without prior notice and without awaiting Donor’s (or subsequent owner’s) opportunity to cure. Donor (or subsequent owner) shall reimburse all reasonable costs associated with this effort.

3.3.2 Failure to Act. If, within ten (10) days after receipt of written notice, Donor (or subsequent owner) does not implement requested corrective measures, if Donor fails to cure the violation within ten (10) days after receipt of notice from Donee, or under circumstances where the violation cannot

reasonably be cured within such ten (10) day period, fails to begin curing such violation within such ten (10) day period, or fails to continue diligently to cure such violation until finally cured, Donee may bring an action in law or in equity to enforce the terms of this Easement. Donee is entitled to enjoin the violation through temporary or permanent injunctive relief and to seek specific performance, declaratory relief, restitution, reimbursement of expenses, and/or an order compelling Donor (or subsequent owner) to restore the Property. If the court determines that Donor (or subsequent owner) has failed to comply with this Easement, Donor (or subsequent owner) shall reimburse Donee for all reasonable litigation costs and reasonable attorney's fees, and all costs of corrective action or restoration incurred by Donee.

3.3.3 *Actual or Threatened Non-Compliance.* Donee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Donee's claim for money damages for any violation of the terms of this Easement is inadequate. Donee shall be entitled to affirmative and prohibitive injunctive relief and specific performance, both prohibitive and mandatory. Donee's claim for injunctive relief or specific performance for a violation of this Easement shall not require proof of actual damages to the Conservation Values.

3.3.4 *Donee's Discretion.* Enforcement of the terms of this Easement shall be at the discretion of Donee, and any forbearance by Donee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Donor (or subsequent owner) shall not be deemed or construed to be a waiver by Donee of such term(s), or of any subsequent breach of the same or any other term, of this Easement, or of any of Donee's rights under this Easement. No delay or omission by Donee in the exercise of any right or remedy upon any breach by Donor (or subsequent owner) shall impair such right or remedy or be construed as a waiver.

3.3.5 *Unintended Acts.* Nothing contained in this Easement shall be construed as to entitle Donee to bring any action against Donor (or subsequent owner) for any injury to, or change in, the Property resulting from causes beyond Donor's (or subsequent owner's) control, including, without limitation, unauthorized actions by third parties, natural disasters such as fires, floods, storms, and earth movement, and prudent actions taken by any person under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. Donee (or subsequent owner) has no responsibility under this Easement for such unintended acts or injuries.

3.3.6 *Unreasonable Litigation.* If Donee initiates litigation against Donor (or subsequent owner) to enforce this Easement, and if the court determines that the litigation was initiated in bad faith, then Donee shall reimburse Donor's, or subsequent owners) reasonable costs and reasonable attorney's fees in defending the action.

4. Prohibited Uses and Actions. Except as otherwise stipulated in this instrument, any activity on or use of the Property that is detrimental to the Conservation Values or inconsistent with the Purpose of this Easement is prohibited. The following uses and actions are prohibited throughout EACH of the Zones or Use Areas items referenced in Paragraph 2, unless specifically limited to certain Zones or Use Areas. By way of example, but not by way of limitation, the following activities and uses are expressly prohibited:

4.1 Subdivision. The legal subdivision of the original (insert acres) of this Property (and any additional parcels of land added to this easement), recording of a subdivision plan, partition, or any other division of the property is expressly prohibited.

4.2 Residential structures There shall be no construction or placement on the Property of new residential structures, dwellings, buildings, or mobile homes except as specified in Section 5, Reserved Rights, and then only in the Homestead Area.

4.3 Industrial and Commercial Activities and Uses There shall be no industrial or commercial activity or use undertaken or allowed on the Property, including landfill or dump, recreational vehicle or trailer park, or other utility infrastructure, racetrack, zoo, traditional cemetery, athletic facility, aircraft facility, factory farm, gun range, or commercial campground. Low-impact commercial agriculture, horticulture and silviculture (provided that such agricultural activities are not permitted in the Natural Zone or Use Area), and *de minimis* commercial recreational activity (including, without limitation): fishing, low-density

primitive camping, livery stable, animal sanctuary, dog training and boarding, archery, and hunting are permitted, provided that such activities and uses are not inconsistent with preserving the Conservation Values or the Purpose of this Easement. In order to sustain economic viability of the Property, home-based business and low-intensity uses, such as a bed-and-breakfast, vacation rental, rental for small retreats, workshops and conferences, and similar enterprises, are also permitted. No right of passage shall be granted or retained across or upon the Property if that right of passage is used in conjunction with prohibited activities and uses.

- 4.4 Utility Structures and Equipment** There shall be no construction or placement on the Property for any commercial, municipal or industrial-scale antenna, pole, tower, mast, conduit, line, pipe, or other infrastructure, equipment or facilities, for the transmission of electricity, telecommunications, water, sewage, septic, drainage, refuse, or fuels, including natural gas, oil, and other petroleum products, nor shall there be any sale, lease, transfer, or granting of any interest in the Property for any such purpose.
- 4.5 Mining and Drilling** There shall be no mining, drilling, or quarrying of minerals, oil, gas or similar substances, nor shall the Property be used as part of any drilling unit for the commercial, industrial, or municipal production of minerals, oil, gas or similar substances. Donor (or subsequent owner) shall not transfer, encumber, lease, sell, or otherwise separate mineral or atmospheric rights from the title to the Property itself.
- 4.6 Filling, Paving and Excavation** There shall be no ditching, trenching, draining, diking, filling, excavating, removal of topsoil, sand, gravel, rock or other materials, or any change in the topography of the land in any manner except in conjunction with activities otherwise specifically authorized herein and in accordance with any conservation plan and applicable governmental regulations and laws.
- 4.7 Water.** There shall be no manipulation or alteration of creeks, streams, surface or subsurface springs or other bodies of water or the shorelines thereof, except for those restoration or maintenance activities necessary to maintain the conservation values as a part of an approved conservation plan, if applicable, and consistent with all laws.
- 4.8 Dumping** There shall be no accumulation, storage, dumping, dispersal, or disposal of garbage, trash, waste, sludge, debris, spoil, fill, hazardous or toxic substances, or other unsightly or offensive material on or in the Property. Any existing (but currently inactive) farm dumps which are designated on Exhibit B are exempted but may not be added to, or expanded. Organic yard, agricultural, horticultural, silvicultural, and animal wastes produced on the Property are exempted, but shall not damage the Natural Zone or Use Area.
- 4.9 Roads** There shall be no building of new roads, parking lots, or other surfaces paved with asphalt, concrete or other impervious materials, or rerouting of Peoria (insert township) Road through the Subject property, except in the Homestead area, local or State rights of way, and those improvements permitted in Section 5 of this instrument.
- 4.10 Detrimental Use** There shall be no activities, actions, or uses harmful or adverse to water conservation, soil conservation, erosion control, or fish and wildlife habitats.
- 4.11 Woody Vegetation** Any land that is predominantly wooded at the time of this donation, as noted in the Baseline Documentation Report, shall remain predominantly wooded. Removal and control of non-native species of trees, shrubs, vines and other woody plants is not restricted, provided that such action is not inconsistent with preserving the Conservation Values. Native species of trees, shrubs, vines, and other woody plants may be removed, cut, mowed, killed and otherwise controlled in the mature forest or delineated natural riparian zone in Exhibit B; as a means to maintain wildlife habitats (such as grasslands and wetlands), if diseased or damaged or likely to sustain disease or damage, as a woodland management practice prescribed by a current Forest Stewardship Plan, or if threatening damage to human life or property. Such plan shall be developed in consultation and accordance with the Ohio Division of Forestry, USDA Natural Resources Conservation Service, or other appropriate public or not-for-profit forest stewardship agency and shall have a primary aim of enhancing wildlife values, although crop tree production may be a mutual goal. Any commercial harvest of live woody vegetation shall be mediated by a professional forester, adhere to contemporary Best Management Practices, be consistent with the Property's Forest Stewardship Plan, and begin no sooner than fourteen (14) days following written

notification of Donee.

- 4.12 Agricultural Activities and Uses** Agricultural activities such as cropping, haying, and low-density livestock production are permitted but shall be restricted to the homestead area and that portion of the Property designated as Agriculture Zone (depicted in “Exhibit B: Land Use Areas” attached hereto), which, comprising approximately 70 acres, has historically supported such uses and at the time of this donation is considered cropland by the USDA Farm Service Agency and Highly Erodible Land (HEL) by the USDA Natural Resources Conservation Service. Intensive, high-density “factory farming” is prohibited. Grazing, pasturing, or sheltering of livestock on any land that is predominantly wooded at the time of this donation, as noted in the Baseline Documentation Report, is prohibited save and except where the timing, placement and intensity of the grazing, pasturing or sheltering of livestock would maintain or enhance the natural portion of the conservation values of this easement, and then only as a part of an active, current conservation plan as referenced in this paragraph. All agricultural activities and uses shall be conducted in a manner that protects this sensitive land from further erosion, adheres to contemporary agricultural Best Management Practices, limits deleterious impacts on wildlife, and is otherwise consistent with preserving the Conservation Values as a part of a current conservation plan developed and filed with the Natural Resources Conservation Service (NRCS), and shall be enforced by the NRCS for compliance with this plan.
- 4.13 Watercourses and Groundwater** Natural watercourses may not be channeled, manipulated or altered, except that bank stabilization practices and other actions may be taken to prevent or cure erosion, to preserve or enhance fish and wildlife habitat, or to otherwise maintain and preserve the Conservation Values. Water from ground or natural surface sources may not be diverted from the Property, unless the water flow follows the natural contour of the land, but may be diverted and/or allowed to flow over any non-residential area within the property (e.g., a silt bed) for conservation or agricultural uses. Uses and activities detrimental to surface or ground water purity are forbidden. Use of ground water as an energy source such as farm-scale geothermal energy is permissible as long as prudent measures are incorporated to prevent migration or addition of groundwater from one aquifer to a different aquifer. There shall be no commercial, industrial or municipal drilling for water or construction of commercial, industrial or municipal water wells, nor shall the Property be used as part of any drilling unit for commercial, industrial or municipal water production. Donor (or subsequent owner) shall not transfer, encumber, lease, sell, or otherwise separate water rights from the title to the Property itself.
- 4.14 Ponds and Wetlands** Ponds and wetlands on the Property at the time of this donation, as noted in the Baseline Documentation Report, shall be protected from harmful use and preserved, unless through natural causes they become filled with sediment, polluted, leaky, or otherwise fail to fulfill their intended purposes. These structures may be repaired, maintained, managed, vegetated, enhanced and enlarged unless such actions are inconsistent with preserving the Conservation Values. Restoration projects such as ponds, wetlands, vernal pools, seeps, springs, and other water bodies may be permitted, but shall become subject to the aforementioned restrictions and be consistent with applicable local, state and federal law. For the purposes of this section, a wetland is defined as a shallow-water area that provides habitat for water-dependent wildlife, such as amphibians, reptiles, shorebirds, waterfowl and aquatic mammals.
- 4.15 Off Road Vehicles:** Motorized off-road vehicles, including, without limitation, motorcycles, snowmobiles, go-karts, dune buggies, all-terrain vehicles and similar recreational vehicles may not be operated on the Property for recreation or sport, except that motorized vehicles may be used in permitted agriculture, horticulture, silviculture, livestock production and associated activities; creating and managing wildlife habitat and otherwise enhancing and preserving the Conservation Values; low-impact environmentally-responsible recreational pursuits; and landscaping, gardening, building maintenance and other domestic tasks. This restriction does not apply to construction and excavating equipment as long as their uses are consistent with Conservation Values.
- 4.16 Signs and Billboards** Billboards are prohibited. Signs are prohibited, except that signs may be displayed to state the name or address of the Property; the Property owner’s name; the Property is

protected by this Easement; the Property or owner participates in conservation programs; prohibition of any unauthorized entry or use; nature interpretive information; presence of hazardous or unsafe conditions; agriculturally related signs and advertisement for the sale or rent of the Property. If any of the farm-scale commercial activities are initiated (e.g., Bed and Breakfast), discreet signs consistent with the rural character, indicating such are permitted.

5. **Reserved Rights.** Donor reserves to themselves, and their beneficiaries, successors, and assigns, all ownership rights that are not expressly restricted by this Easement. By way of example, but not by way of limitation, the following activities and uses are expressly reserved:
- 5.1 **Quiet Enjoyment** Donor and all subsequent owners reserve the right of access to, and quiet enjoyment of, all portions of the Property.
- 5.2 **Unfettered Use** Donor and all subsequent owners reserve the right to engage in, and permit and invite others to engage in, all uses of the Property that are not expressly prohibited herein or are not inconsistent with the Purpose of this Easement.
- 5.3 **Control of Trespass** Donor and all subsequent owners reserve the right to prevent any member of the public from trespassing on the Property. This Easement shall not be construed as a dedication of the Property for public use, nor does this Easement **authorize Donee to** make any use of the Property other than as provided herein.
- 5.4 **Transfer** Donor and all subsequent owners reserve the right to sell, mortgage, bequeath, or donate the Property in its entirety, and to require that any conveyance will remain subject to the terms of this Easement. All subsequent owners shall be bound by all obligations specified in this instrument. All transfers except the mortgaging of the Property shall require written notice be provided to the Donee.
- 5.5 **Other Conveyance** - Donor and all subsequent owners may lease all or part of the Protected Property, provided that such conveyance and lease agreements required are subject to all the terms of this Easement and written notice is provided to the Donee.
- 5.6 **Maintenance and Use of Existing Structures**
- 5.6.1 Donor and all subsequent owners reserve the right to maintain, renovate, remodel, improve, and replace structures (including associated septic systems, wells, underground waterlines, electric service, and other necessary infrastructure) existing at the time of this donation, as noted in the Baseline Documentation Report, in substantially the same location, character and size. Existing residential or non-residential structures may be used for non-residential purposes including, but not limited to: an office, meeting center, classroom, nature center (and other purposes appropriate to the uses and activities described in Section 5 of this instrument), but may be renovated or modified for such purposes only as stipulated in this section. However, non-residential structures may not be converted into residential structures. Utilities may be replaced with *farm-scale* renewable-energy systems including, but not limited to: geothermal, solar, wind and water-powered generation if such conversion and associated infrastructure is not inconsistent with preserving the Conservation Values. No less than thirty (30) days prior to replacing, constructing, or substantially modifying any existing structure, Donor (or current owner) shall provide a written plan to Donee for review and approval. Such approval shall not be unreasonably withheld.
- 5.6.2 **Other Structures** Donor and all subsequent owners reserve the right to construct, maintain and replace, in any of the designated residential areas, outbuildings, porches, walkways, sheds, gazebos, landscaping accouterments, wells, birdhouses and feeders, underground electric and water lines, arbors and lattice works and other structures and supportive infrastructure appropriate to residential units. Donor and all subsequent owners may also construct, maintain, and replace with new structures and supportive infrastructure appropriate to permitted agricultural, horticultural, and animal husbandry activities. Such structures include, but are not limited to: buildings as needed for maintaining equipment, sheltering domestic animals or livestock, and storing feed, supplies, produce, and other agricultural products; animal and livestock enclosures, feeders, shelters, fences, pens and corrals. Donor and all subsequent owners may also construct, maintain, and replace at any reasonable location

on the Property new structures and supportive infrastructure appropriate to low-intensity, low-impact outdoor recreation and the full use and enjoyment of the Property. Such structures include, without limitation, light-duty bridges, boardwalks and railings; trail markers, interpretive signs and displays; weather stations; wild animal feeders and houses; hunting and observation blinds and stands (which may be temporarily located in trees, but not permanently affixed such as with nails or screws), and shelters, pavilions and gazebos. No less than thirty (30) days prior to replacing, constructing, or substantially modifying any existing structure, Donor (or current owner) shall provide a written plan to Donee for review and approval. Such approval shall not be unreasonably withheld.

- 5.7 Use of Biota** Donor and all subsequent owners reserve the right to engage in sustainable, lawful harvest and consumptive use of wildlife by fishing, hunting, trapping, or other reasonable methods of taking, provided that no harm is done to declining, rare, threatened or endangered species. For the purpose of this section, wildlife is defined as insects, mollusks, crustaceans, fish, amphibians, reptiles, wild birds, and wild mammals. Woody and herbaceous plants and their parts and products (such as sap, fruit, seeds, and fiber) may be harvested and collected on a sustainable basis, so long as such activity is consistent with the Conservation Values, and consistent with a current Forest Stewardship Plan as described in Section 4.11.
- 5.8 Animal husbandry** Donor and all subsequent owners reserve the right to engage in low-intensity, low-impact, animal husbandry, provided that such activities are not detrimental to the Conservation Values. This right includes the option to operate a small-scale kennel, boarding facility, and/or training facility for cats and/or dogs. The number of animals allowed should not exceed the carrying capacity of the acreage and terrain, nor compromise the Conservation Values.
- 5.9 Gardening, Landscaping and Horticulture** Donor and all subsequent owners reserve the right to engage in gardening, landscaping, and horticulture, including the planting, management, and harvesting of non-invasive ground covers, grasses, forbs, shrubs, trees, and other herbaceous species. Farm-scale commercial production of horticultural products (as for farm markets, truck garden, Christmas trees and associated products, etc.) is permitted for wholesale and/or direct sale to the public.
- 5.10 Maintenance and Enhancement of Conservation Values** Donor and all subsequent owners reserve the right to maintain and enhance the Conservation Values in any manner that is not inconsistent with Purpose of this Easement.
- 6. Responsibilities of Ownership.** Donor (or subsequent owner) retains all responsibilities, and shall bear all costs and liabilities of any kind, related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability coverage. Donor (or subsequent owner) shall keep Donee free of any liability with respect to liens arising out of any work performed for, materials furnished to, or obligations incurred by, Donor (or subsequent owner). Donor (or subsequent owner) shall pay before delinquency any taxes, assessments, fees and charges of whatever description levied on or assessed against the Property by a competent authority (collectively, "taxes"), including any taxes imposed upon, or incurred as a result of this Easement, and shall furnish Donee with satisfactory evidence of payment upon request.
- 7. Extinguishment and Condemnation.** This Easement may be extinguished in whole or in part only by an unexpected change in condition that renders fulfillment of the Purpose impossible. In this case, Donee shall be entitled to compensation. The amount of the proceeds to which Donee shall be entitled, after the satisfaction of any prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment shall be determined, unless otherwise provided by Ohio law at the time, in accordance with the terms of this section.

 - 7.1. Unexpected Change in Conditions** If circumstances render the Purpose of this Easement impossible to fulfill, then this Easement may be partially or entirely terminated or extinguished, but only by judicial proceedings in a court of competent jurisdiction.
 - 7.2. Condemnation** As a condition of accepting this Easement, Donee (or any successor organization holding this Easement) shall make a reasonable and good-faith effort to negate or limit the taking of this Easement by exercise of the power of eminent domain.

- 7.3. Proceeds** This Easement constitutes a real property interest immediately vested in Donee, which, for the purposes of this section, the parties hereby agree have a fair market value determinable by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this donation attributable to improvements) by the ratio of the value of the Easement at the time of this donation to the value of the Property unencumbered by the Easement at the time of this donation. Values at the time of this donation shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this Easement, pursuant to Section 170(h) of the Internal Revenue Code of 1954, as amended.
- 8. Amendment.** If circumstances arise under which an amendment or modification of this Easement would be appropriate, Donor (or subsequent owner) and Donee are free to jointly amend this Easement, except that no amendment shall be made that will affect this Easement's perpetual duration or the qualification of this Easement or the status of Donee under any applicable laws, including Sections 5301.67 through 5301.70 of the Ohio Revised Code or Section 170(h) of the Internal Revenue Code of 1954, as amended. Furthermore, any such amendment or modification shall be consistent with the original Purpose of this Easement as set forth in this instrument and shall be duly recorded in the official records of Butler County, Ohio.
- 9. Assignment.** This Easement is transferable, but Donee may assign its rights and obligations under this Easement only to an organization that is at the time of transfer an organization that is qualified under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and is authorized to acquire and hold conservation easements under Sections 5301.67 through 5301.70 of the Ohio Revised Code (or any successor provision then applicable). As a condition of such assignment, Donee shall require that the Purpose of this Easement continue to be carried out by the assignee.
- 9.1. Conditions Warranting Assignment** If Donee shall cease to exist, or fails to be a qualified organization as defined in this section, or is no longer authorized to acquire and hold conservation easements, or is unable or unwilling to fulfill its obligations under this Easement, then Donee shall transfer its entire interest in this Easement to a qualified assignee. If Donee acquires a fee simple interest in the Property, the acquiring Donee shall transfer its interest in this Easement, in whole or in part, to a qualified assignee.
- 9.2. Selection of Assignee** Donee shall abide by Donee's Board-approved protocol and criteria for selecting its successor. Final selection of the assignee shall be made by mutual agreement between Donee and Donor (or subsequent owner). In the event that these parties cannot reach agreement, Donee shall petition the appropriate court to appoint a qualified successor Donee.
- 10. Subsequent Transfers.** Donor (or subsequent owner) shall incorporate the terms of this instrument in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Donor (or subsequent owner) shall give written notice to Donee of intent to transfer any such interest at least thirty (30) days prior to the date of such transfer (except farming leaseholds, for which the Donor shall give written notice to Donee of intent to transfer any such interest at least seven (7) days prior to the date of such transfer). Failure of Donor (or subsequent owner) to perform any act required by this section shall not impair the validity of this Easement or limit its enforceability in any way.
- 11. Stewardship Endowment.** Donor hereby endows the sum of _____ payable within 30 days following receipt of monies from the Grant under which this Easement has been commenced. This endowment is granted and deemed sufficient at the time of the granting of this Easement, and with prudent investing, to provide in perpetuity, the funds necessary to the Donee to monitor the terms of this Easement in its entirety.
- 12. Estoppel Certificates.** Upon request by Donor (or subsequent owner), Donee shall within thirty (30) days execute and deliver to Donor (or subsequent owner) any document, including an estoppel certificate, which certifies compliance with any obligation of Donor (or subsequent owner) contained in this Easement and otherwise evidences the status of this Easement as may be thereby requested.
- 13. Notification and Approval.** Donee is entitled to thirty (30) days written notice whenever its approval is

required under this Easement. If Donee fails to respond within thirty (30) days after it receives the written notification, then its approval shall be deemed given. Such implied approval shall not extend to any activity or use inconsistent with preserving the Conservation Values or the Purpose of this Easement. Donee's approval shall remain in effect for three (3) years. If the approved activity is not completed within three (3) years of the approval date, then Donor (or subsequent owner) shall re-submit a written application to Donee. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally, sent by first-class mail, postage prepaid, or sent by electronic mail (with a read acknowledgement request sent by sender) addressed as follows (or to such other address as either party from time to time shall designate by written notice to the other):

Donor:

(insert township)(insert address)
Oxford, Ohio 45056

Donee:

Three Valley Conservation Trust
5920 Morning Sun Road
Oxford, Ohio 45056
lfrimerman@3vct.org

- 14. Recordation.** Donee shall record this instrument in a timely fashion in the official records of Butler County, Ohio and may re-record it at any time as may be required to preserve its rights in this Easement.
- 15. General Provisions.**
- 15.1 Controlling Law** The interpretation and performance of this Easement shall be governed by the laws of the State of Ohio.
- 15.2 Liberal Construction** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of preserving the Conservation Values of the Property and in accordance with the policy and purpose of Sections 5301.67 through 5301.70 of the Ohio Revised Code. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 15.3 Severability** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, then the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.
- 15.4 Entire Agreement** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- 15.5 No Forfeiture** Nothing contained herein will result in a forfeiture or reversion of Donor's title in any respect.
- 15.6 Successors** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, beneficiaries, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.
- 15.7 Termination of Rights and Obligations** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to said transfer shall survive transfer.
- 15.8 Captions** The captions in this instrument have been inserted solely for convenience of reference and are not part of this instrument and shall have no effect upon construction or interpretation.
- 15.9 Counterparts** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

In Witness Whereof. Donor and Donee have set their hands on the day and year first above written.

(insert name)
Donor

Authorized Representative of the
Three Valley Conservation Trust
Donee

STATE OF OHIO, COUNTY OF BUTLER, SS:

The foregoing instrument was acknowledged before me this __st day of _____, 2011 by Jeannine M. Eich, Trustee

Notary Public

Date

STATE OF OHIO, COUNTY OF BUTLER, SS:

The foregoing instrument was acknowledged before me this __ day of _____ 2011 by _____ , an authorized representative of the Three Valley Conservation Trust, a not-for-profit organization on behalf of the organization.

Notary Public

Date

My Commission Expires _____