

\_\_\_\_\_ Lump Sum Payment  
\_\_\_\_\_ Like Kind Exchange

ACEPERSF (2009)

**AGREEMENT FOR THE SALE AND PURCHASE OF  
AN AGRICULTURAL CONSERVATION EASEMENT TO THE  
COMMONWEALTH OF PENNSYLVANIA IN PERPETUITY**

THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ by  
and among \_\_\_\_\_  
residing at \_\_\_\_\_  
\_\_\_\_\_ ("Grantor(s)") and the Commonwealth of  
Pennsylvania (Commonwealth) acting through the Department of Agriculture, State  
Agricultural Land Preservation Board ("State Board") (hereinafter collectively  
referred to as Grantee) 2301 North Cameron Street, Harrisburg, PA 17110-9408 and  
\_\_\_\_\_ County, Pennsylvania, ("County") acting through its  
County Agricultural Land Preservation Board, \_\_\_\_\_,  
Pennsylvania, ("County Board") is an Agreement for the Sale and Purchase of an  
Agricultural Conservation Easement.

**WITNESSETH**

WHEREAS; Grantor(s) is/are the sole owner(s) of all that certain land situate in  
\_\_\_\_\_ Township(s), \_\_\_\_\_  
County, Pennsylvania consisting of \_\_\_\_\_ acres of land together with the buildings  
and improvements erected thereon and more particularly described in Exhibit "A" hereto  
("the subject land"); and

WHEREAS; Grantor(s) intend(s) to convey an agricultural conservation  
easement in the subject land to the Grantee pursuant to the Agricultural Area Security  
Law, P.L. 128, No. 43, June 30, 1981 (3 P.S. § 901-915) as amended (hereinafter  
"the Act"); and

WHEREAS; the State Board, a departmental board within the Pennsylvania  
Department of Agriculture, is authorized under the Act to execute agreements for the  
purchase of agricultural conservation easements and to purchase agricultural conservation  
easements in the name of the Commonwealth of Pennsylvania; and

WHEREAS; the County has adopted a program for purchasing agricultural  
conservation easements which program has been certified by the State Board pursuant to  
the Act; and

WHEREAS; the County acting through the County Board has recommended that  
the Commonwealth purchase an agricultural conservation easement in the subject land;  
and

WHEREAS; the Commonwealth acting through the State Board, has approved the purchase of an agricultural conservation easement in the subject land; and

WHEREAS; the purchase of an agricultural conservation easement in the subject land will benefit the County by helping to preserve the integrity and agricultural nature of the agricultural security area in which the subject land is situated, and

WHEREAS; the Grantee and the County Board wish to provide for payment of the purchase price and the costs incident to the purchase of an agricultural conservation easement in the subject land, and

WHEREAS; the Grantee and the County Board wish to provide for the enforcement of an agricultural conservation easement in the subject land,

NOW THEREFORE; in consideration of the mutual covenants herein contained, and other good and valuable consideration, the parties agree as follows:

#### ARTICLE I

1. Upon acceptance and execution as set forth in Article XII, this Agreement shall constitute an Agreement For The Sale And Purchase Of An Agricultural Conservation Easement among the Grantor(s), the Grantee and the County Board.
2. The provisions of the Agricultural Area Security Law, P.L. 128, No. 43, June 30, 1981 (3 P.S. Sections 901-915) as amended and the provisions of the Regulations adopted at 7 Pa. Code Ch. 138e are incorporated herein by reference and made a part hereof.

#### ARTICLE II

1. Grantor(s) agree(s) to sell and convey to the Grantee its successors and assigns, and Grantee agrees to purchase from Grantor(s) an interest in the subject land consisting of an agricultural conservation easement as defined in the Act and this Agreement (hereinafter "agricultural conservation easement"). The Commonwealth shall be the sole owner of the agricultural conservation easement to be conveyed pursuant to this Agreement.
2. The parties agree that the purchase price of \$\_\_\_\_\_ dollars for the agricultural conservation easement to be purchased pursuant to this Agreement shall be paid entirely by the Grantee at the time of the closing as set forth in Article VIII. The Commonwealth shall be the sole owner of the agricultural conservation easement to be conveyed pursuant to this Agreement.
3. Upon payment of the purchase price and any reimbursement for costs incident to the purchase of the agricultural conservation easement as set forth in Article III, the allocation made to the County from the Agricultural Conservation Easement Purchase Fund shall be reduced by the amount paid by the Grantee.

### ARTICLE III

1. The Grantee and the County Board agree that the costs set forth in the Statement of Costs submitted to the State Board by the County Board and attached as Exhibit "B" hereto are costs incident to the purchase of the agricultural conservation easement.
2. At closing, the Commonwealth shall deliver a check in the amount of \$ \_\_\_\_\_ to the Grantor(s) as payment for the purchase price. At closing, the Commonwealth shall also deliver a check in the amount of \$ \_\_\_\_\_ to the County as payment for the costs incident to the purchase of the agricultural conservation easement so long as these costs actually have been incurred and approved by the State Board as part of the Statement of Costs.
3. Within 10 days after the closing of the purchase of the agricultural conservation easement, the County Board shall submit to the Grantee a settlement statement, including an accounting for all funds received from Grantee in connection with the purchase and a copy of the executed Deed of Agricultural Conservation Easement.
4. Within 10 days after the closing of the purchase of the agricultural conservation easement, the County Board may submit a request for payment of its unreimbursed costs incident to the purchase of the agricultural conservation easement to the State Board. Payment of such costs will be approved by the State Board at its next regularly scheduled meeting so long as such costs are reasonable, within the scope of the Statement of Costs, and the allocation of funds from the Agricultural Conservation Easement Purchase Fund to the County is sufficient to pay for such costs.
5. If the closing of the purchase of the agricultural conservation easement is not held within the time established pursuant to this Agreement, the County shall return immediately all funds received from the Grantee in connection with this Agreement.

### ARTICLE IV

Grantor(s) represent(s), warrant(s) to, and covenant(s) with the County Board and the Grantee that:

1. Grantor(s) are adult individuals having the full power, capacity and authority to enter into this Agreement.
2. Grantor(s) have been advised and encouraged to have legal counsel review this Agreement on their behalf prior to signing it.

3. Grantor(s) have read this Agreement and understand its contents and that it restricts the use of the subject land to agricultural production and, knowing this, voluntarily enter into this Agreement.
4. The information and statements set forth in the Application Form, Locational Maps, Soils Report and Crop Report furnished by the Grantor(s) to the County Board pursuant to 7 Pa. Code Section 138e.61 is true and correct and that all facts necessary to prevent the information and statements from being misleading have been disclosed.
5. Grantor(s) acknowledges that any violation of the terms of this Agreement or the Deed of Agricultural Conservation Easement, when delivered, shall entitle Grantee, its successors, assigns or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor(s), his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

#### ARTICLE V

The County Board represents, warrants to, and covenants with the Grantor(s) and the Grantee that:

1. The County Board has been duly established by the County and is validly existing under the laws of the Commonwealth of Pennsylvania.
2. The County Board has adopted rules and regulations for the administration of a countywide program for the purchase of agricultural conservation easements within agricultural security areas.
3. The County Board is in compliance with the Constitution and laws of the Commonwealth, including the Act and the Regulations issued pursuant to the Act and has full power and authority to consummate all transactions, execute all documents, including this Agreement, and perform all acts contemplated in this Agreement in the name of the County.
4. The County Board has reviewed the information and statements set forth by the Grantor(s) in the Application Form, Locational Maps, Soils Report, and Crop Report furnished to the County Board by the Grantor(s) pursuant to 7 Pa Code Section 138e.61 and has found that the subject land is in an agricultural security area and qualifies for the purchase of an agricultural conservation easement under the Act and Regulations.
5. The County Board has furnished a Summary Report, Title Report and proposed legal description for the subject land to the State Board pursuant to 7 Pa. Code Section 138e.91 and has recommended that the Grantee purchase an agricultural Conservation easement in the subject land.

6. The County Board has complied with all provisions of the Act and Regulations in reviewing and recommending that the Grantee purchase an agricultural conservation easement in the subject land.
7. The information and statements contained in the Summary Report, Title Report and Proposed Legal Description furnished to the State Board by the County Board pursuant to 7 Pa. Code Section 138e.91 are true and correct and that all facts necessary to prevent the information and statements from being misleading have been disclosed.

#### ARTICLE VI

The Grantee represents, warrants to, and covenants with the Grantor(s) and the County Board that:

1. The State Board is a departmental board within the Pennsylvania Department of Agriculture.
2. The State Board is in compliance with the Constitution and laws of the Commonwealth, including the Act and the Regulations, and has full power and authority to consummate all transactions, execute all documents, and perform all acts contemplated by this Agreement in the name of the Commonwealth.

#### ARTICLE VII

1. Grantor(s) shall not develop or use the subject land for any purpose other than agricultural production or commercial equine activities.
2. Grantee or its designee or either of them, shall have the right to prevent the development or use of the subject land for any purpose other than agricultural production or commercial equine activities.
3. Agricultural production consists of, and is limited to, the production for commercial purposes of crops, equine, livestock and livestock products, including the processing or retail marketing of the crops, equine, livestock or livestock products if more than 50% of the processed or merchandised products are produced on the subject land.

Crops, equine, livestock and livestock products include, but are not limited to:

- (a) Field crops, including corn, wheat, oats, rye, barley, soybeans, speltz, buckwheat, hay, potatoes and dry beans;
- (b) Fruits, including apples, peaches, grapes, cherries, pears and berries;
- (c) Vegetables, including tomatoes, pumpkins, snap beans, cabbage, carrots, beets, onions, sweet corn and mushrooms;
- (d) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers;

- (e) Livestock and livestock products, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs;
  - (f) Timber, wood and wood products derived from trees; and
  - (g) Aquatic plants and animals and their by-products.
  - (h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF DECEMBER 17, 1981 (P.L. 435, NO. 135), KNOWN AS THE "RACE HORSE INDUSTRY REFORM ACT."
4. This agricultural conservation easement shall not prevent the actions permitted under Section 14.1(c)(6)(i)-(v) of the Act.
  5. This agricultural conservation easement shall be perpetual in duration.
  6. Grantees' exercise or failure to exercise any right conferred by the agricultural conservation easement shall not be deemed to be management or control of activities on the subject land for purposes of enforcement of the Act of October 18, 1988, (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.
  7. Grantor(s), his heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantees their successors or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorneys fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation, including but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials. The obligation imposed by this paragraph shall not merge with the Deed of Agricultural Conservation Easement, but shall survive the closing.

#### ARTICLE VIII

1. The closing of the sale and purchase set forth in this Agreement shall occur on a date to be established by the parties which date shall be no more than 120 days from the date of complete execution of this Agreement by the Grantee. Closing shall be held at \_\_\_\_\_ or in another location in \_\_\_\_\_ County, Pennsylvania as agreed among the parties in writing.
2. At closing, Grantor(s) shall deliver to Grantee a fully executed Deed of Agricultural Conservation Easement in the form attached as Exhibit "C" hereto. Grantor(s) further agrees to execute and deliver to Grantee any other documents necessary to record such Deed of Agricultural Conservation Easement. The County Board shall record the Deed of Agricultural Easement immediately following closing.

## ARTICLE IX

1. At the time of the closing as set forth in Article VIII of this Agreement, the agricultural conservation easement shall be free and clear of all liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, and other encumbrances except as set forth below:
  
2. Grantee's obligation to purchase the agricultural conservation easement set forth in this Agreement is conditioned upon Grantor(s) being able to convey the agricultural conservation easement free and clear of all encumbrances except as set forth in this Article IX. Should Grantor(s) be unable to convey the agricultural conservation easement as set forth in this Agreement, Grantee may, at Grantee's sole option and discretion terminate this Agreement or extend the time for closing by a period of up to thirty days. Should Grantor(s) be unable to convey the agricultural conservation easement as set forth in this Agreement at the expiration of such thirty day extension, this Agreement shall terminate and Grantee shall have no further obligation to proceed to closing.
  
3. At closing, the County shall provide a title insurance policy naming the Grantee as the insured and issued by a Title Insurance Company that is authorized to issue title insurance in the Commonwealth of Pennsylvania. Such title insurance policy shall fully insure Grantee's interest in the subject land. All exceptions to such title insurance policy, except as noted in paragraph 1, shall be removed prior to closing. The cost of such title insurance policy shall be paid by the County and shall be considered a cost incident to the purchase of the agricultural conservation easement set forth in this Agreement.

## ARTICLE X

The information and statements set forth in the Application Form, Locational Maps, Soils Report, and Crop Report, furnished by the Grantor(s) to the County Board pursuant to 7 Pa. Code Section 138e.61, and the Summary Report, Title Report, and Proposed Legal Description furnished to the State Board by the County Board pursuant to 7 Pa. Code Section 138e.91 are incorporated in and made a part of this Agreement by reference thereto. Should any of the information set forth in the documents referenced in this Article X be other than as represented in such documents, the Grantee may, at the Grantee's sole option and discretion, terminate this Agreement, waive such nonconformity, or extend the time for the closing of the sale and purchase set forth in this Agreement for thirty days. A waiver of a nonconformity pursuant to this Article X must be in writing and signed by an authorized official of the Grantee. Should the Grantee choose to extend the time for the closing of the sale and purchase pursuant to this Article X, the Grantee shall provide Grantor(s) and the County Board with a written statement of the nonconformity which must be corrected prior to closing. Should Grantor(s) fail to correct such nonconformity within such thirty day period, Grantee's obligation to purchase the agricultural conservation easement set forth in this Agreement shall terminate.

## ARTICLE XI

1. All taxes imposed upon this sale and purchase of an agricultural conservation easement or the recording of the Deed of Agricultural Conservation Easement by any taxing authority shall be paid by the Grantor(s) at the time of closing.
2. All fees levied for the recording of the Deed of Agricultural Conservation Easement shall be paid by the County at the time of the closing. The obligations imposed on the respective parties by this Article XI shall not merge with the Deed of Agricultural Conservation Easement, but shall survive the closing.

## ARTICLE XII

Upon execution by the Grantor(s) this document shall constitute an offer by the Grantor(s) to sell and convey an agricultural conservation easement to the Grantee. This offer shall be deemed to be accepted by the Grantee at such time as the State Board approves the recommendation of the County Board to purchase an agricultural conservation easement in the subject land. This Agreement shall become effective only upon acceptance by the Grantee and approval and execution by all persons designated on the signature page or pages of this Agreement. The failure of the Grantee to accept and execute this Agreement shall terminate the obligations of all parties to this Agreement.

## ARTICLE XIII

1. The time set for the closing and all other times set forth in this Agreement, shall be considered to be of the essence of this Agreement. The failure of a party to perform an action within the time required in this Agreement shall be considered to be a material breach of this Agreement.
2. This Agreement is expressly conditioned upon the availability of funds for the purpose of funding the purchase of the agricultural conservation easement provided for herein. In the event that such funds are not available, Grantee's obligations under this Agreement shall terminate.
3. Any amendment or modification of the terms of this Agreement shall have no force or effect unless it is in writing and signed by all parties hereto.
4. This agreement and all other agreements executed pursuant hereto shall be deemed to be contracts made under the laws of the Commonwealth of Pennsylvania and for all purposes, shall be construed in accordance with the laws of such Commonwealth.
5. The Grantor(s) and the County Board shall comply with the provisions of the Contractor Integrity Clause, Exhibit D and the Nondiscrimination Clause, Exhibit E, attached hereto and incorporated herein.



6. No terms or provisions of this Agreement shall be deemed waived, and no breach excused, unless such waiver or consent to a breach shall be in writing and signed by an authorized official of the Grantee. Any waiver of a provision or consent to a breach, whether expressed or implied, shall not constitute a waiver of, or consent to, any other subsequent breach.
7. This Agreement may be assigned by Grantors without the prior consent of Grantees (if applicable).

IN WITNESS WHEREOF, the parties to this Agreement have executed it in their own name or through their respective duly authorized officers, as of the date first above written.

Attest:

GRANTOR(S)

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
Signature [Date]

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS#/EIN#

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
Signature [Date]

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS#/EIN#

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
Signature [Date]

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS#/EIN#

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
Signature [Date]

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS#/EIN#

Attest:

COUNTY OF \_\_\_\_\_  
PENNSYLVANIA, COUNTY  
AGRICULTURAL LAND  
PRESERVATION BOARD

By: \_\_\_\_\_  
Name: [Date]

By: \_\_\_\_\_  
Name: [Date]  
Title:

\_\_\_\_\_  
County Federal I.D. No.

By: \_\_\_\_\_  
Name: [Date]  
Title:

I hereby certify that I am the Solicitor for the County and the County Board, that I have reviewed this Agreement and the documents referenced in the Agreement, and that they are properly executed and in the proper form and are in accordance with the laws of the Commonwealth of Pennsylvania and the County.

\_\_\_\_\_  
Name: [Date]

Attest:

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF AGRICULTURE, STATE  
AGRICULTURAL LAND PRESERVATION  
BOARD

By: \_\_\_\_\_  
Name: [Date]

By: \_\_\_\_\_  
SECRETARY OF AGRICULTURE  
CHAIRMAN, STATE AGRICULTURAL  
LAND PRESERVATION BOARD

Approved for form and legality:

By: \_\_\_\_\_  
Chief Counsel [Date]  
Department of Agriculture

Preapproved form:  
OGC No. 2-K-451  
Approved OAG 04/25/91

I hereby certify that funds are available under the listed appropriation symbols:

\_\_\_\_\_  
Comptroller [Date]