

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is made this 18th day of December, 2009, by Blackburn Farm, Inc., a Kentucky corporation, having a mailing address at P.O. Box 4341, Route 1, Spring Station Pike, Midway, Kentucky 40347 (who with its successors in title to all or any portion of the Property, as hereinafter defined, are collectively referred to as "Grantor"), in favor of Bluegrass Conservancy, Inc. ("Grantee"), a nonprofit charitable corporation incorporated, in good standing, and qualified to do business under the laws of the Commonwealth of Kentucky, having a business address at Dudley Square, 380 South Mill Street, Suite 205, Lexington, Kentucky 40508.

WITNESSETH:

WHEREAS, Grantor is the record owner in fee simple of certain unencumbered real property known as Blackburn Farm located in Woodford County, Kentucky; more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property") containing eighty-four and five hundred eighty-five thousandths (84.585) acres of land, more or less; and

WHEREAS, it is Grantor's desire to restrict and protect the Property; and

WHEREAS, the Property possesses natural, scenic, open-space, historic, and agricultural values (collectively, the "Conservation Values") worthy of conservation protection and of great importance to Grantor, the people of Woodford County, and the people of the Commonwealth of Kentucky; and

WHEREAS, Grantor and Grantee have the common purpose of conserving and preserving the aforementioned Conservation Values of the Property; and

WHEREAS, the specific Conservation Values of the Property are documented in an inventory of relevant features of the Property, dated December 2009, on file at the office of Grantee and incorporated by this reference ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that Grantor and Grantee agree provide, collectively, an accurate representation of the Property at the time of this grant and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement; and

WHEREAS, the Property includes open and undeveloped farm land and open-space; and

WHEREAS, the Property contains approximately one thousand two hundred eighty-five (1,285) feet of frontage along Harpers Lane and approximately two thousand fifty (2,050) feet of frontage along the Midway-Spring Station Road, and the public traveling these roads is afforded visual access of the scenic views of the rolling pastureland and fields whose beauty and open-space character will be protected by this Easement; and

WHEREAS, the Property is a contributing property within the Big Sink Rural Historic District, which was placed on the National Register of Historic Places by the United States Department of Interior's National Park Service on January 27, 1994, and limiting development of the farm will protect this historically important rural land area; and

WHEREAS, contributing resources to the Big Sink Rural Historic District are not regulated or restricted by state or local historic preservation laws or ordinances, and the designation of the Property as a contributing resource imposes no restriction on the Grantors to protect the Property from development; and

WHEREAS, the Property is underlain by the Devils Hollow Member and the Tanglewood Limestone Member of the Lexington Limestone Formation, phosphatic limestones in which underground cavities and sinkholes are common and which would be highly susceptible to sinkholes and groundwater pollution if the Property were improvidently developed; and

WHEREAS, the Property is predominately underlain with Huntington Silt Loam, Maury Silt Loam, and Newark Silt Loam Soils, which are prime farmland soils, as well as Maury Silt Loam Soils, which are of statewide importance, as identified by the Soil Survey of Woodford County, Kentucky, prepared by the Natural Resource Conservation Service of the United States Department of Agriculture, which identifies protection of the Property's soils as being of statewide and local importance; and

WHEREAS, the grant of this Easement will serve the clearly delineated governmental policies of the Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. § 4201 et seq., whose purpose is "to minimize the extent to which the federal programs contribute to the irreversible conversion of farmland to nonagricultural purposes;" and

WHEREAS, the Commonwealth of Kentucky, by Kentucky Revised Statutes ("KRS") §§ 382.800 to 382.860, effective July 15, 1988, has authorized the use of conservation easements "the purposes of which include retaining or protecting natural, scenic or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property" and has authorized Grantee, as a charitable corporation, to hold such conservation easements; and

WHEREAS, it is the adopted policy of the Commonwealth of Kentucky, as stated in KRS §§ 262.900 to 262.920, effective July 15, 1994, "to retain agriculture and enhance the contribution that agriculture makes to its economy," and to that end "[a] program to retain and enhance agriculture is in the economic best interest of the Commonwealth and consequently, constitutes a public benefit that contributes to the health, safety, and general welfare of the residents of the Commonwealth and the nation;" and

WHEREAS, it is the declared policy of the Commonwealth of Kentucky, as stated in KRS § 262.850, effective July 14, 2000, “to conserve, protect and encourage development and improvement of its agricultural lands for the production of food and other agricultural products,” “to conserve and protect its agricultural land base as a valuable natural resource which is both fragile and finite,” and “to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state’s economy and as an important resource;” and

WHEREAS, the Versailles, Midway, Woodford County Comprehensive Plan Update adopted March 10, 2005, sets forth general community goals, which include the following: “provide for the proper organization of land use and physical relationship thereof that will provide for an increasingly safe, healthy and convenient environment for the residents of the County,” “encourage and promote the conservation and protection of Woodford County’s unique natural resources and ‘special areas’ such as unique agricultural, scenic, cultural, archeological, geological, and biological sites,” “to encourage the preservation and adaptive use of Woodford County’s old and historic buildings, sites and historic districts through the comprehensive planning process,” and “protect and promote the county’s agricultural economy and character for the benefit of the public;” and

WHEREAS, the Versailles, Midway, Woodford County Comprehensive Plan Update, adopted March 10, 2005, sets forth general community objectives, which include the following: “future land development should be encouraged to be located in centralized compacted patterns rather than decentralized sprawled patterns,” “strive to protect recreational, tourist, unique natural areas, and cultural attractions by controlling any development that might harm the surrounding environment of such attractions,” “identify and protect sensitive natural resource sites and unique special areas from the effects of incompatible development,” “protect historic building[s], districts and sites from destruction or harm from land use changes,” “provide sufficient agricultural land so as to protect the County’s agricultural economic base and productivity potential,” “protect prime agricultural land from urbanization in order to provide adequate resources for future production of food and fiber,” “protect prime agricultural land from incompatible land uses,” “conserve the unique elements of the County’s agrarian character, such as the horse farms, in order to promote tourism and its related economic benefits,” and “recognize the agricultural and equine factors that continue to fuel the region’s economy;” and

WHEREAS, the Property is located within the Agricultural/Equine Preserve District of Woodford County, the purpose of which is “to identify those portions of the Rural Service Area that can be characterized as prime agricultural and equine lands based on soil conditions, subsurface geology, topography and other factors” and “the use of such lands should be primarily reserved for agricultural and equine operations, and agricultural tourism activities;” and

WHEREAS, the Woodford County Zoning Ordinance, adopted in August 1994, identifies the Property as located in the Agricultural (A-1) District, which was established to preserve the rural character of the agricultural service area by promoting agriculture and related uses, and by discouraging all forms of urban development except for a limited amount of conditional uses; and

WHEREAS, because the Property is not specifically restricted to limit its development under the foregoing comprehensive plan or referenced zoning ordinance, except as to permitted residential density in the event of subdivision, the enumerated goals and objectives are met by virtue of the restrictions set forth in this Easement by voluntary private act of Grantor instead of by legislative act or restrictions made by the Woodford County Government or by public expenditure; and

WHEREAS, the Property is in close proximity to land previously placed under conservation easement with Grantee and adjacent to or in close proximity to other land proposed to be placed under conservation easement with Grantee, and the preservation of the Property will result in an expanded area of farmland and open-space under conservation easement; and

WHEREAS, the grant of a conservation easement by Grantor to Grantee on the Property and the acceptance by Grantee will assist in preserving and maintaining the aforementioned Conservation Values of the Property; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by this Easement, in perpetuity, by permitting only those land uses on the Property that do not significantly impair or interfere with those values, including, without limitation, those land uses relating to farming, equestrian activities (including, but not limited to, breeding, training, and racing), and agriculture existing at the time of this Easement; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve the Conservation Values of the Property in perpetuity, and intend the grant of such right to qualify as a "qualified conservation contribution" as that term is defined under Section 170(h) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"); and

WHEREAS, Grantee has received a determination letter dated February 23, 2001 from the Internal Revenue Service, on file at the offices of Grantee, to the effect that Grantee is a tax exempt nonprofit organization, qualified under Section 501(c)(3) of the Code and further represents that it is a qualified organization under Section 170(h) of the Code, whose primary purpose is to act as a regional land conservancy to protect and enhance the exceptional rural landscape of the Bluegrass region of Kentucky in its natural, scenic, agricultural, forested, and/or open-space condition; and

WHEREAS, Grantee agrees by accepting this Easement that Grantee shall endeavor to honor the intentions of Grantor stated herein and endeavor to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and future generations.

NOW, THEREFORE, in consideration of the above, and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to Section 170(h) of the Code and the laws of the Commonwealth of Kentucky, in particular KRS §§ 382.800 to 382.860, Grantor hereby voluntarily, unconditionally, and absolutely grants and conveys to Grantee and its successors and permitted assigns a conservation easement (this "Easement" or "Conservation Easement") in perpetuity over the Property of the nature and character and to the extent hereinafter set forth; and to that end, Grantor covenants on behalf of itself and its successors and assigns, to Grantee and its successors and permitted assigns, that the Property shall be held, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, restrictions, and easements hereinafter set forth, which covenants, conditions, restrictions, and easements shall constitute restrictive covenants and shall be deemed to run with the land in perpetuity and to burden the Property in perpetuity.

1. **Purpose.** It is the purpose (the "Purpose") of this Easement to assure that the Property will remain available for agricultural use by preserving and protecting its agricultural soils and agricultural viability and productivity and to prevent any use of the Property that will impair or interfere with Conservation Values of the Property. To the extent that the preservation of the open-space and scenic values of the Property is consistent with the primary Purpose stated above, it is within the Purpose of this Easement to protect those values. Grantor intends that this Easement will confine the use of the Property to such activities, including, without limitation, those involving farming and agriculture as are not inconsistent with the Purpose of this Easement. For purposes of clarification, the terms "farming" and "agriculture" as used herein are defined to include, but not be limited to, planting, raising, harvesting, and producing tobacco, row crops, hay and pasture crops, floral and greenhouse products, bees and apiary products, agricultural, silvicultural, vinicultural, aquacultural, horticultural, and forestry crops and products of every nature and description; breeding, boarding, training, raising, pasturing, and grazing livestock of every nature and description; and the primary processing, storage, and sale, including direct retail sale to the public of, crops and products harvested and produced principally on the Property. The parties hereto acknowledge the historic significance of the Property as set forth in the recitals; however, the Property's historic value is not one of the primary purposes of this Easement.

2. **Rights of Grantee.** To accomplish the Purpose of this Easement the following rights are hereby conveyed to Grantee by this Easement:

(a) to preserve and protect the Conservation Values of the Property;

(b) to enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement in accordance with **Section 6**; provided that, except in cases where Grantee determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and

(c) to prevent any activity on or use of the Property that is inconsistent with the Purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in **Section 6**.

3. Prohibited Uses. In order to accomplish, safeguard, and promote the conservation purposes of this Easement set forth in **Section 1** above, Grantor hereby declares and covenants that the following restrictions are hereby imposed and shall apply forever to the use and enjoyment of the Property. Any activity on or use of the Property inconsistent with the Purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited on, over, or under the Property, except as provided in **Section 4**:

(a) mining, excavating, quarrying, dredging, or removing from the Property any soil, loam, peat, gravel, sand, hydrocarbons, rocks, or other mineral resource or natural deposit, except in connection with an activity or construction permitted herein;

(b) commercial or industrial uses of the Property with the exception of agricultural production and such agritourism and limited commercial uses as defined herein or as permitted in **Section 4**, all of which combine to protect the economic viability of the agricultural operations of the property;

(c) constructing, placing, or maintaining any building, mobile home, transmission or receiving tower for public or private utilities, energy facility, or other temporary or permanent structure or facility on, above, or below the Property, except as permitted in **Section 4**;

(d) the installation of underground storage tanks or the placing, filling, storing, processing, dumping, or other disposal on the Property of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other such substance, whether or not generated on the Property, except as (i) reasonably required for the use of the Property for normal agricultural production or permitted residential use; and (ii) in accordance with applicable local, state, and federal laws and regulations. For purposes of clarification, the storage of agricultural products, byproducts, and equipment on the Property, so long as such storage is done in accordance with all applicable governmental laws and regulations, is permitted;

(e) the legal or de facto division, subdivision, or partitioning of the Property into more than the existing three (3) parcels of land described in Exhibit A is prohibited, and any transfer of the fee interest in the Property shall be of the entire Property as an aggregate unit consisting of the three (3) legal parcels, comprising 84.585 (+/-) acres referenced above and encumbered by this Easement. Notwithstanding the foregoing, in the event Grantee has approved pursuant to **Section 5** the design, location, and construction plans for the New Residence referenced in **Section 4(c)** and the only impediment to Grantor obtaining a building permit is the filing of a minor plat creating a legally subdivided lot (a "Platted Residential Lot") for such New Residence, then such subdivision shall be

permitted. In the event of such permitted subdivision, any transfer of the fee interest in the Property shall be of the entire Property as an aggregate unit consisting of permitted Platted Residential Lot and the parent tract from which it is created, aggregating to eighty-four and five hundred eighty-five thousandths (84.585) (+/-) acres encumbered by this Easement. Any minor plat recorded for the creation of a lot to accommodate the New Residence shall include the following notation or a similar notation approved by Grantee: "The lot created by this minor plat is solely for the purposes of obtaining a building permit. The lot created hereby is encumbered by that certain Deed of Conservation Easement dated December 18th, 2009 and recorded in Deed Book ____, Page ____ in the Office of the Clerk of Woodford County. The terms of such Deed of Conservation Easement prohibit the lot created hereby from being conveyed or transferred as a lot separate from the entire acreage encumbered by said Deed of Conservation Easement."

(f) mining or removal of groundwater from the Property, except as may be required for the agricultural production and residential uses permitted herein;

(g) diking, draining, filling, or alteration of the sinkholes, springs, or streams on the Property, except as necessary to maintain, protect, and enhance the wetland environment and ecological features thereof, or to construct, repair, or maintain ponds as permitted in **Section 4**, or as may be reasonably necessary for animal or human health or welfare;

(h) dumping, depositing, abandoning, discharging, or releasing any gaseous, liquid, solid, or hazardous wastes, substances, materials, or debris of whatever nature on, in, over, or under the ground or into the surface or ground water of the Property, except as permitted by law. For purposes of clarification, the prohibition of this paragraph shall not apply to the containment of sanitary sewage effluent, or to containment or storage of biological and chemical substances and waste byproducts used and produced by agricultural and livestock activities on the Property, in accordance with all applicable federal, state, and local statutes and regulations. For purposes of clarification, the parties agree that in connection with any agricultural or landscaping activity on the Property, the use of chemical fertilizers, herbicides, pesticides, fungicides, and natural controls is permitted provided such use is in compliance with all applicable federal, state, and local statutes and regulations and only to the extent such use does not have a demonstrable detrimental effect on the Conservation Values of the Property;

(i) the placing, construction, or maintenance of signs, billboards, or outdoor advertising structures other than a reasonable number of signs needed to state the name of the Property and the names and addresses of the occupants, to temporarily advertise the sale or lease of the Property, to advertise an activity permitted by this Easement, to identify animals or plants on the Property, to direct visitors to the Property, to identify barns or other buildings, to post the Property against trespassers, or as may be required by local, state, or federal regulations provided that the placement, number, and design of such signs shall not significantly diminish the scenic character of the Property. This prohibition shall not limit the right of Grantee to display such signs as it may customarily use to identify lands under conservation easement;

(j) the paving or otherwise covering with concrete, asphalt, gravel, or any other paving material of any portion of the Property or the construction, maintenance, and use of any road for reasons not relating to agricultural production or permitted residential use without the advance written permission of Grantee, or as permitted in **Section 4**. Notwithstanding the foregoing prohibition, temporary paving shall be permitted in the event of temporary emergency conditions resulting from an Act of God, with the understanding that such emergency paving shall be removed and the land restored as soon as practicable following the emergency conditions; and

(k) any unanticipated activity or use of the Property which would impair significant conservation interests unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement, in which case such use or activity shall be subject to the notice and prior approval of Grantee as provided in **Section 5** below.

4. Reserved Rights. The provisions of **Section 3** notwithstanding, Grantor reserves to itself and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the Purpose of this Easement. Without limiting the generality of the foregoing, and subject to the terms of **Section 3**, the following rights are expressly reserved:

(a) the right to conduct farming or agricultural activities (as defined herein) for domestic or commercial purposes;

(b) the right to all manner of residential use and enjoyment of the one (1) existing residence ("Existing Residence") and detached garage, one (1) New Residence as defined in **Section 4(c)** below, and any Replacement Residences as defined in **Section 4(d)** below, and the grounds surrounding each residence including, but not limited to, the construction, maintenance, repair, and restoration of fences, driveways, and paths; the right to provide utilities to such Existing Residence, New Residence, and Replacement Residences; the right to cut and remove grass or other vegetation; and the right to perform routine maintenance, landscaping, horticultural activities, and upkeep; the right to maintain, repair, and subject to the prior notice and approval of Grantee, the right to reasonably expand such Existing Residence, New Residence, and Replacement Residences consistent with the Purpose of this Easement; and subject to the prior notice and approval of Grantee, the right to construct reasonable appurtenances, provided that such structures are in compliance with all applicable building and zoning requirements and any other applicable rules, regulations, ordinances, or statutes;

(c) subject to the prior notice and approval of Grantee, the right to construct one (1) new single-family detached dwelling ("New Residence"), with either attached or detached garage and other reasonable appurtenances (provided that such structures are in compliance with all applicable building and zoning requirements and any other applicable rules, regulations, ordinances, or statutes). Prior to beginning construction of the New Residence, Grantor shall obtain the approval of Grantee, which shall not be arbitrarily withheld, in connection with the following:

- (i) the location of the New Residence; and
- (ii) the number, size, and location of appurtenances.

Grantee shall consider the proposed location of the New Residence and the number, size, and location of appurtenances and their impact on the Conservation Values protected by this Easement in deciding whether to grant approval of the proposed construction of the New Residence.

(d) subject to the prior notice and approval of Grantee, the right to replace the Existing Residence and the New Residence with replacement residences ("Replacement Residences"). Grantor shall obtain the approval of Grantee as to the location of the Replacement Residences, the number, size, and location of appurtenances, and their impact, if any, on the Conservation Values protected by this Easement. For purposes of clarification, the intent of the parties is to have only two (2) permitted single-family detached residences on the Property at any given time.

In the event that any Replacement Residence hereunder is destroyed or substantially damaged, Grantor may repair the Replacement Residence or construct a subsequent replacement subject to the prior notice and Grantee's approval and all express terms for replacement as set out in this **Section 4**;

- (e) the right to operate and maintain a bed and breakfast style lodging facility in the Existing Residence, New Residence, Replacement Residences, and associated appurtenances provided that such use is in compliance with all applicable zoning requirements and any other applicable rules, regulations, ordinances, or statutes;
- (f) the right selectively to cut or clear trees or vegetation and mow or clear existing fields as reasonably necessary for agricultural purposes, habitat enhancement and protection, fire protection, unpaved trail and road maintenance, tick and insect control, creation or preservation of vistas, the removal of all invasive, non-indigenous plants, or otherwise to preserve the present condition of the Property, or as may be reasonably necessary for animal or human health or welfare;
- (g) the right to drill for water on the Property, to make available water wells, and to construct underground cisterns, water storage tanks, or septic systems for permitted residential use or agricultural production on the Property;
- (h) the right to compost, burn with the appropriate permit from the Fire Marshal or relevant regulatory authority, or store vegetative waste generated by activities and uses permitted herein and the right to store for removal at reasonable intervals normal and customary waste generated on the Property by activities and uses permitted herein;
- (i) subject to the prior notice and approval of Grantee, the right to make minor topographical changes solely in connection with the uses of the Property permitted by this Easement provided that such changes are conducted in such a manner as to not diminish the Conservation Values protected by this Easement;
- (j) the right to create new trails or footpaths using permeable materials (such as sand, gravel, wood shavings, mulch, or crushed stone);
- (k) the right to engage in any outdoor recreational activities for personal, noncommercial purposes, including hunting and fishing, that are in compliance with all applicable federal, state, and local statutes and regulations;
- (l) the right to engage in no more than de minimis commercial recreational activities provided that such activities are (i) not disruptive of the natural environment; (ii) consistent with the Purpose of the Easement; (iii) conducted in compliance with all applicable federal, state, and local laws and regulations; and (iv) subject to the prior notice and approval of Grantee;
- (m) the right to post all or a portion of the Property against trespassing and hunting;
- (n) the right to construct, repair, maintain, and replace pens, corrals, paddocks, and fences reasonably necessary in connection with farming or agricultural activities;
- (o) the right to construct, repair, maintain, reasonably expand, replace, and re-locate one (1) run-in shed reasonably necessary in connection with farming or agricultural activities;

(p) the right to repair, maintain, reasonably expand, replace, and re-locate the three (3) existing barns and two (2) existing related buildings reasonably necessary in connection with farming or agricultural activities and depicted in the Baseline Documentation. For purposes of clarification, the intent of the parties is to have only three (3) barns and two (2) related buildings on the Property at any given time;

(q) the right to lease or grant less than fee interests in all or a portion of the Property for any use permitted to Grantor under this Easement, provided that such lease or other interest is consistent with and subject to the terms of this Easement;

(r) subject to the prior notice and approval of Grantee, the right to construct, repair, and maintain new ponds or reservoirs provided that any pond or reservoir is located in a manner consistent with the Purpose of this Easement and the proposed pond or reservoir does not substantially diminish or impair the agricultural productivity or Conservation Values of the Property;

(s) the right to grant either public or private local service rights-of-way through the Property for installation, transportation, or use of lines for water, sewage, electric, telephone, cable television, Internet, or other telecommunications, gas, oil, or oil products, provided such lines serve only the uses and activities specifically permitted by this Easement. The phrase "grant either public or private local service rights-of-way" includes the right to construct or install lines. The construction or installation of utility lines other than the types stated in this paragraph or in **Section 4(t)** below is prohibited on the Property;

(t) the right to install, maintain, repair, extend, and replace utility systems and facilities which generate power from solar and other renewable energy sources, provided such utility systems and facilities serve only the uses and activities specifically permitted by this Easement. This reserved right does not permit the installation of wind turbines or similar structures over 30 feet in height, without the prior notice and majority approval of the Board of Directors of Grantee.

Utility systems and facilities shall be installed or constructed with minimal grading and disturbance to vegetation and shall not adversely impact the Conservation Values of the Property. Following installation or construction, the surface shall be restored in a timely manner to a condition consistent with the Purpose of this Easement;

(u) subject to the prior notice and approval of Grantee, the right to construct, repair, and maintain one (1) farm office, built in accordance with all applicable laws and regulations, either within or adjacent to the exterior walls of an existing structure or permitted future or replacement structure. In the event a farm office is destroyed or substantially damaged, Grantor may construct a replacement farm office subject to all preceding terms such as prior notice and approval of Grantee. For purposes of clarification, the intent of the parties is to maintain only one (1) farm office on the whole eighty-four and five hundred eighty-five thousandths (84.585) (+/-) acres Property at one time; and

(v) subject to the prior notice and approval of Grantee, the right to install a single residential dwelling unit, built in accordance with all applicable laws and regulations, within the exterior walls of an existing structure or permitted future or replacement structure.

For the purpose of the foregoing subsection (v), “residential dwelling unit” shall mean a living area within a building typically not used for living space which is designed for single-family dwelling (including associated electricity, well or water source, and septic system) with, at a minimum, permanently installed cooking and indoor sanitation facilities.

5. Notice and Approval.

5.1 Notice of Intention to Undertake Certain Permitted Actions. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities, as provided in **Section 4**, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is consistent with the Purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose of this Easement. For the purposes of any activity requiring notice and approval of Grantee and also requiring Grantor’s application to any governmental authority for approval or permits, Grantor shall give such written notice to Grantee not less than thirty (30) days prior to the date on which Grantor intends to file such application to the applicable governmental authority.

5.2 Grantee’s Approval. Where Grantee’s approval is required, as set forth in **Section 4**, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor’s written request therefor. Grantee’s approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the Purpose of this Easement. Grantee’s failure to respond to a request for approval shall be deemed to constitute a withholding by Grantee of its approval.

5.3 Baseline Documentation Update. Upon completion of any permitted new construction, including, but not limited to, the construction of the New Residence and its permitted appurtenances and Replacement Residence, Grantor shall notify Grantee so Grantee may update the Baseline Documentation. Grantor may relinquish its rights to construct the New Residence and Replacement Residence as provided herein, at any time, and such relinquishment may be recorded as an amendment to this Easement according to the provisions of **Section 16.5** below.

6. Grantee's Remedies.

6.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.

6.2 Injunctive Relief. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by restraining order or temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury. In the event that Grantee seeks injunctive or other equitable relief, Grantee shall not be required to post a bond and shall not be required to demonstrate irreparable harm or injury.

6.3 Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement, including, without limitation, damages for the loss of scenic, aesthetic, agricultural, open-space, historic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

6.4 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this **Section 6** without prior notice to Grantor or without waiting for the period provided for cure to expire.

6.5 Scope of Relief. Grantee's rights under this **Section 6** apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in **Section 6.2**, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this **Section 6** shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

6.6 Costs of Enforcement. All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor without setoff, deduction, defense, abatement, suspension, deferment, or reduction; provided, however, that if Grantor ultimately prevails in a judicial enforcement action, each party shall bear its own costs. Grantor expressly agrees that Grantee shall have, is hereby granted, and shall be entitled to record, a lien against the Property for any unpaid damages or costs of enforcement.

6.7 Forbearance. Forbearance by Grantee to exercise any of its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

6.8 Waiver of Certain Defenses. Grantor acknowledges that it and its authorized representatives have read this Easement, its terms and requirements, and Grantor, in full knowledge of its provisions, hereby waives any defense of laches, estoppel, or prescription with respect to any enforcement action instituted by Grantee.

6.9 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

7. Access. No right of access by the general public to any portion of the Property is conveyed or created by this Easement.

8. Costs, Liabilities, Taxes, and Environmental Compliance.

8.1 Costs, Legal Requirements, and Liabilities. Grantor 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 liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

8.2 Taxes. Grantor shall pay, before delinquency, all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority, including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

8.3 Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:

- (a) no substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, other than licensed agricultural chemicals, exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on, from, or across the Property, except as necessary for disposal purposes in accordance with applicable rules, regulations, or laws;
- (b) there are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;
- (c) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
- (d) there is no pending or threatened litigation in any way affecting, involving, or relating to the Property;
- (e) no civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders;
- (f) there are no outstanding surface or subsurface mineral rights associated with the Property; and
- (g) as the owner of the Property in fee simple, Grantor has access to the Property and has good right to convey to Grantee this Easement, and Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Easement.

8.4 Remediation. If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

8.5 Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and KRS §§ 224.01-010 et seq.

8.6 Hold Harmless. Grantor for and on behalf of itself and its heirs, successors, and assigns and each subsequent owner of the Property, hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the gross negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and KRS §§ 224.01-010 et seq. by any person in any way affecting, involving, or relating to the Property; (3) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or any way harmful or threatening to human health or the environment; or (4) the obligations, covenants, representations, and warranties of **Sections 8.1 through 8.5.**

9. Extinguishment and Condemnation.

9.1 Change in Economic Conditions. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become more economically valuable than uses permitted by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not permitted by the terms of this Easement, has been considered by Grantor in granting this Easement. Grantor believes that any such changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to **Section 9.2**. In addition, the inability of Grantor, its successors or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment pursuant to **Section 9.2**.

9.2 Extinguishment. If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of 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 the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with **Section 9.3**.

9.3 Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of **Section 9.2**, the parties stipulate to have a fair market value determined by multiplying (1) the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by (2) the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Code. The parties shall include the ratio of those values with the Baseline Documentation of the Property (on file at Grantee's office) and shall amend such values, if necessary, to reflect any final determination thereof by the Internal Revenue Service or a court of competent jurisdiction. For purposes of this section, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant and the percentage interests of Grantor and Grantee in the fair market value of the Property thereby determinable shall remain constant.

9.4 Condemnation. If all or any part of the Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of their interests in the Property subject to the taking or in-lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with an effort to prevent a taking or in an effort to recover the full value of their interest subject to a taking or in-lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined by multiplying that balance by the ratio set forth in **Section 9.3**. Notwithstanding the foregoing, Grantee reserves the right to negotiate with any condemning authority, utility company or other entity for adequate or additional compensation, in cash, or in-kind, including attorneys' fees, in the event such entity seeks to install any type of utility easement on, over, or under the Property, provided, however, that such installation can be undertaken in a manner that is consistent with the purposes and Conservation Values of this Easement.

9.5 Application of Proceeds. Grantee shall use any proceeds received under the circumstances described in this **Section 9** in a manner consistent with its conservation purposes, which are exemplified by this Easement.

10. Mortgages. Grantor represents and warrants that as of the date hereof, there are no liens or mortgages outstanding against the Property. Upon request, Grantee agrees to subordinate its rights under this Easement to the valid claims of any future mortgage holders or beneficiaries of deeds of trust to the proceeds of any sale, condemnation proceedings, or insurance involving the Property, or to the leases, rents, and profits thereof, and likewise to subordinate any of its rights under this Easement after the date of such subordination; provided that any such mortgage or deed of trust shall remain subordinated and junior to the Easement to the extent necessary to permit Grantee to enforce the Purpose of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by exercise of any rights of such mortgage holder or deed of trust beneficiary; and provided further that, in the unlikely event this Easement is terminated under the circumstances described in **Section 9**, Grantee shall be entitled to compensation in accordance with the terms of **Section 9**. Grantee agrees to execute any documents required to effect a subordination pursuant to this paragraph.

11. Assignment and Backup Grantee.

11.1 Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Code (or any successor provision then applicable), and authorized to acquire and hold conservation easements under KRS §§ 382.800 to 382.860 (or any successor provision then applicable) or the laws of the United States. As a condition of such transfer, Grantee shall require that the conservation purpose that this grant is intended to advance continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least thirty (30) days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

11.2 Backup Grantee. In the event Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Code (or any successor provision then applicable) its rights and duties hereunder shall become vested in and fall upon the PACE Corporation of the Commonwealth of Kentucky or such other qualified organization as may then be determined under the doctrine of cy pres by a court of competent jurisdiction, to the extent such entity shall evidence acceptance of and agree to fully enforce the terms herein. Upon the transfer or assignment of this Easement, Grantee shall also transfer to the transferee or assignee the then-value of any endowment funds received by Grantee from Grantor to support Grantee's obligation to monitor and enforce this Easement minus any funds used by Grantee for monitoring or enforcement purposes, and the transferee shall hold such funds for such monitoring and enforcement purposes.

12. Current Lease and Subsequent Transfers. Grantee acknowledges that there is currently a lease agreement between Grantor and Hurstland Farm, Inc., a Kentucky corporation, as tenant (the "Tenant"), which leasehold interest is summarized in that certain Farm Lease dated November 27, 2009. Said leasehold interest permits Tenant to undertake certain agricultural activities permitted hereunder. Grantor shall submit a copy of this Easement to Tenant and shall obtain from Tenant written acknowledgement that the lease or any future lease agreement between Grantor and such Tenant is and shall be subordinate and subject to the terms of this Easement.

Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

13. Estoppel Certificates. Upon written request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which certifies, to the best of Grantee's knowledge, Grantor's compliance with any obligation of Grantor contained in this Easement or which otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request therefor.

14. Notices. All notices or communication that either party desires or is required to give to the other hereunder shall be in writing and shall be deemed properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged; (ii) one (1) business day after having been deposited for overnight delivery with any reputable overnight courier service; or (iii) three (3) business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows:

If to Grantor: Gay N. Barnett
Michael T. Barnett
Blackburn Farm, Inc.
P.O. Box 4341
Route 1, Spring Station Pike
Midway, KY 40347

If to Grantee: Bluegrass Conservancy, Inc.
Attention: Executive Director
Dudley Square
380 South Mill Street, Suite 205
Lexington, KY 40508
Facsimile: (859) 255-7952

or to such other address as either party from time to time shall designate by written notice to the other. Any party by notice to the other party may designate additional or different addresses for subsequent notices or communications.

15. Recordation. Grantee shall record this instrument in timely fashion in the official records of Woodford County, Kentucky, and may re-record it at any time as may be required to preserve the rights in this Easement.

16. General Provisions.

16.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Kentucky.

16.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of KRS §§ 382.800 to 382.860. 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. The rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Easement.

16.3 Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid or unenforceable, 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 or unenforceable, as the case may be, shall not be affected thereby and shall be enforced to the greatest extent permitted by law. The invalidity or unenforceability of any provision of this Easement shall also not affect any ancillary or supplementary agreement relating to the subject matter hereof.

16.4 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.

16.5 Amendment.

(a) For purposes of furthering the conservation of the Property and furthering the Purpose of this Easement, and to meet changing conditions, Grantor and Grantee may agree to amend jointly the terms of this Easement in writing without notice to any other party; provided, however, that no such amendment shall: (i) limit the perpetual duration of this Easement; (ii) interfere with the conservation purposes of this Easement; (iii) adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and the laws of the Commonwealth of Kentucky; (iv) permit any private inurement or private benefit to any person or entity; or (v) adversely affect the Property's Conservation Values protected by this Easement. Any such amendment shall be recorded in the official records of Woodford County, Kentucky. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consider or negotiate any amendment.

(b) Amendment to conservation easements is extraordinary. Any request by Grantor to amend this Easement shall be subject to the standards and restrictions as outlined in **Section 16.5(a)** above. Grantor shall make such request for amendment in writing to Grantee, which notice shall contain precise details of the amendment that Grantor proposes. Grantee shall make reasonable efforts to respond in writing to any such request within thirty (30) days from receipt of the request from Grantor, which response may be to grant or deny approval of the request, or to specify that Grantee is still reviewing the request. In the event that Grantor requests Grantee to amend this Easement, or attempts to undertake or promote any action that would require amendment of this Easement pursuant to this **Section 16.5(b)**, Grantor shall pay all reasonable attorneys' fees and expenses incurred by Grantee in connection with the review, negotiation, and consummation of such request and/or the resulting amendment, if any, including, but not limited to, recording fees, the cost of updating the Baseline Documentation, and reimbursement for staff salaries and overhead allocable to the amendment review, management, and negotiations. Reimbursement of Grantee's costs by Grantor shall be paid regardless of whether an amendment is ultimately approved by Grantee.

16.6 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

16.7 Joint Obligations. The obligations imposed by this Easement upon Grantor shall be joint and several.

16.8 Successors. All 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, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The terms "Grantor" or "Grantors" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its successors and assigns, and the above-named Grantee and its successors and assigns.

16.9 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 transfer shall survive transfer.

16.10 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

16.11 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.

16.12 Compliance with Laws. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any law, regulation, ordinance, code, or requirement relating to building materials, construction method, or use of the Property. In the event of any conflict between any such ordinance, code, or regulation and the terms hereof, Grantor shall promptly notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Easement and such law, ordinance, code, or regulation.

16.13 Development Rights. To the extent that Grantor owns or is entitled to development rights which may exist now or at sometime hereafter by reason of the fact that under any applicable zoning or similar ordinance the Property may be developed to more intensive uses than the Property is devoted to as of the date hereof, such development rights shall not be exercisable on, above, or below the Property during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the Purpose of the Easement.

16.14 Merger. Grantor and Grantee agree that the terms of this Easement shall survive any merger of the fee and easement interests of the Property. If necessary to perpetuate this Easement, in the event that Grantee shall at any time in the future become the fee simple owner of the Property, then Grantee for itself, its successors and assigns, covenants and agrees that it will create a new conservation easement containing the same restrictions and provisions as contained herein, and convey such easement to a similar unit of federal, state, or local government, or a local, state, or national organization whose purposes, inter alia, are to promote the preservation or conservation of natural, scenic, agricultural, historical, cultural, open-space, and architectural resources, and which is a qualified organization under Section 170(h)(3) of the Code.

16.15 Notice from Government Authorities. Grantor shall deliver to Grantee within five (5) working days of receipt copies of any notice of default or demand letters received by Grantor from any duly authorized governmental authority which if not complied with could result in a lien on the Property. Upon receipt of a written request from Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or demand letter where compliance is required by law.

16.16 Enforceability. This Easement is made pursuant to KRS §§ 382.800 to 382.860, but the invalidity of such statute or any part thereof shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to agree and to bind themselves, their respective successors, heirs, and assigns in perpetuity to each term of this Easement whether this Easement is enforceable by reason of any statute, common law, or private agreement either in existence now or any time subsequent hereto. This Easement may be recorded at any time by any person if the effect of such rerecording is to make more certain the enforcement of this Easement or any part thereof.

16.17 No Representation of Governmental Approval. Grantee makes no representations or warranties about Grantor's legal rights that governmental authorities may approve or otherwise regulate, including, but not limited to, the rights reserved by Grantor to construct a New Residence, Replacement Residences, appurtenances thereto, or agricultural structures pursuant to **Section 4**. Grantee's approval of Grantor's exercise or intent to exercise any such reserved right does not represent approval by any governmental authority of such exercise, nor a belief, representation or warranty by Grantee that governmental authorities will approve any reserved right or the exercise thereof.

16.18 Baseline Documentation. By execution of this Easement, Grantor and Grantee confirm and acknowledge that the Baseline Documentation has been read and all elements thereof, reviewed, and each party hereto, has signed a separate acknowledgement form attached to the report.

(Signatures on following pages).

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

By: Michael T. Barnett
Michael T. Barnett
Title: Vice-President of Blackburn Farm, Inc.

10-6-2013 400134
Ashley M. Greathouse
NOTARY PUBLIC

10-6-2013 #406134
Ashley L. Greenhouse
NOTARY PUBLIC

ACKNOWLEDGED AND ACCEPTED:

GRANTEE: Bluegrass Conservancy, Inc.

By: Helen C. Alexander
Helen C. Alexander

Title: Chairwoman of the Board of Directors of
Bluegrass Conservancy, Inc.

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF *Fayette*)

The foregoing instrument was acknowledged before me this 16th day of December, 2009, by Helen C. Alexander, as Chairwoman of the Board of Directors of Bluegrass Conservancy, Inc., a Kentucky non-profit corporation, on behalf of the corporation.

My commission expires:

10-6-2013 #406134
Ashley N. Greenhouse
NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY AND UPON RECORDATION RETURN TO:

Mackenzie Victoria Royce
Mackenzie Victoria Royce, Esq.
Bluegrass Conservancy
Dudley Square
380 South Mill Street, Suite 205
Lexington, Kentucky 40508
Telephone: (859) 255-4552

EXHIBIT A

**DEED OF CONSERVATION EASEMENT FROM
BLACKBURN FARM, INC. TO
BLUEGRASS CONSERVANCY, INC.**

Tract I:

**HURSTLAND FARM, INC.
LEGAL DESCRIPTION
FIELD 4**

A PORTION OF THE MAIN BODY OF HURSTLAND FARM, INC.

All that tract or parcel of land situated on the south side of Spring Station Pike approximately one mile west of Midway in Woodford County Kentucky and more fully described and bounded as follows to wit;

Beginning at a steel pin set in the center line of Spring Station Pike, said steel pin being located at a corner in Spring Station Pike, and said steel pin being 2065.27 feet from the center of Harpers Lane as measured along the center of Spring Station Pike; thence S 22°02'34"W 11.46 feet to a steel pin set in the line of a fence and in the center of a gate; thence S 67°25'44"E 815.00 feet to a post in the line of other land of Hurstland Farm, Inc. (Field 3) and a corner to Fawn Leap Farm; thence with Fawn Leap Farm S 25°58'05"W 1281.55 feet to a post in the line of Fawn Leap Farm and corner to Adams; thence with Adams N 67°33'03"W 730.05 feet to a post corner to Hurstland Farm, Inc. (Field 5); thence with Hurstland Farm, Inc. (Field 5) for three calls, N 15°38'59"E 660.74 feet to a post, N 55°43'37"E 58.88 feet to a post, and N 22°14'32"E 586.89 feet to a steel pin set in the center of Spring Station Pike; thence along the center of Spring Station Pike S 67°42'11"E 41.68 feet to the beginning and containing 23.9 acres.

Tract II:

**HURSTLAND FARM, INC.
LEGAL DESCRIPTION
FIELD 5**

A PORTION OF THE MAIN BODY OF HURSTLAND FARM, INC.

All that tract or parcel of land situated on the south side of Spring Station Pike approximately one mile west of Midway in Woodford County Kentucky and more fully described and bounded as follows to wit;

Beginning at a steel pin set in the center of Spring Station Pike, said steel pin being 1300.11 feet from the center of Harpers Lane as measured along the center of Spring Station Pike, and said steel pin being a corner to Hurstland Farm, Inc. (Field 6); thence along the center of Spring Station Pike S 67°42'11"E 723.50 feet to a steel pin set at the northwest corner of Hurstland Farm, Inc. (Field 4); thence leaving Spring Station Pike and with the westerly line of Hurstland Farm, Inc. (Field 4) for three calls, S 22°14'32"W 586.89 feet to a post, S 55°43'37"W 58.88 feet to a post,

EXHIBIT A (CONTINUED)

and S 15°38'59"W 660.74 feet to a post corner to Hurstland Farm, Inc. (Field 5) and in the line of Adams; thence with Adams N 67°45'14"W 683.33 feet to a post in the line of Adams and corner to Hurstland Farm, Inc. (Field 6); thence with Hurstland Farm, Inc. (Field 6) for the following eight (8) calls: N 19°22'21"E 962.59 feet along a plank fence to the southeast corner of a barn, N 19°12'29"E 48.27 feet along the easterly edge of said barn, N 71°07'22"W 42.46 feet along the northerly edge of said barn and continuing to a plank fence, N 13°53'29"E 11.82 feet along a plank fence to a post, N 37°55'09"E 22.22 feet along a plank fence to a post, N 18°46'45"E 56.07 feet to a point, N 47°15'47"E 39.78 feet to a point on the westerly edge of an asphalt drive, N 19°21'05"E 161.03 feet along the westerly edge of an asphalt drive, to a steel pin set in the center of Spring Station Pike, the point of beginning and containing 20.2 acres.

Tract I and Tract II being a portion of the same property conveyed to Hurstland Farm, Inc., a Kentucky corporation, by Deed dated July 1, 1973, of record in Deed Book 92, Page 452, in the Woodford County Clerk's Office.

Tract III:

HURSTLAND FARM, INC.
LEGAL DESCRIPTION
FIELD 6

A PORTION OF THE MAIN BODY OF HURSTLAND FARM, INC.

All that tract of parcel situated at the southeast corner of Spring Station Pike at Harpers Lane approximately one mile west of Midway, in Woodford County, Kentucky and more fully described and bounded as follows, to wit:

Beginning at a steel pin set in the center of Spring Station Pike where it is intersected by the center of Harpers Lane; thence with the center of Harpers Lane S 23° 30' 57" W 1300.99 feet to a corner with Lehman; thence with Lehman S 67°31' 58" E 1412.52 feet to a post and a new corner to Hurstland Farm; thence with Hurstland Farm for the following eight (8) new calls: N 19°22' 21" E 962.59 feet along a plank fence to the southeast corner of a barn, N 19°12' 29" E 48.27 feet along the easterly edge of said barn, N 71° 07' 22" W 42.46 feet along the northerly edge of said barn and continuing to a plank fence, N 13°53' 29" E 11.82 feet along a plank fence to a post, N 37°55' 09" e 22.22 feet along a plank fence to a post, N 18°46' 45" E 56.07 feet to a point, N 47°15' 47" E 39.78 feet to a point on the westerly edge of an asphalt drive, N 19°21' 05" E 161.03 feet along the westerly edge of an asphalt drive, to a steel pin set in the center of Spring Station Pike, thence along the center of Spring Station Pike for three (3) calls: N 67°17' 35" W 739.73 feet to the northeast corner of the muck pit lot, N 67°02' 02" W 142.75 feet along the frontage of the muck pit lot, and N 67°21' 37" W 417.63 feet to the beginning and containing 40.485 acres. There is included therein that certain passway as described in that certain deed from Nellie R. Harper and Walter B. Harper, her husband to Charles Nuckols, dated March 1, 1920 of record in Deed Book 28, Page 124 in the Woodford County Clerk's Office.

Being a portion of the same property conveyed to Blackburn Farm, Inc., a Kentucky corporation, by Deed dated April 15, 1994, of record in Deed Book 162, Page 073, Woodford County Clerk's Office.

Branch: WOODFORD COUNTY
JUDIE WOOLAMS
Date/time: 12/29/2009 2:37:02 PM
User: Donna