

CONSERVATION LEASE AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 20__, by and between _____, residing at _____, or alternatively, owners of property located in Halfmoon Township, and residing at _____, hereinafter called "Landowner", and HALFMOON TOWNSHIP, having its principal place of business at 100 Municipal Lane, Port Matilda, PA 16870-9518 hereinafter called "Halfmoon Township".

WHEREAS, the Commonwealth of Pennsylvania has authorized the preservation, acquisition or holding of land for open space uses by its local governmental units under the Open Space Lands Act, "Act 153," (32 P.S. §§ 5001 - 5011), and recognizes the benefits to the citizens of the Commonwealth of preserving or restricting the use of selected open space lands for uses, including but not limited to, agricultural, environmental, forest, scenic, recreational and historic; and

WHEREAS, the Commonwealth of Pennsylvania has enacted the Conservation and Preservation Easements Act, (32 P.S. §§ 5051-5059), and recognizes the importance and significant public and economic benefit of conservation and preservation easements in its ongoing efforts to protect, conserve or manage the use of the natural, historic, agricultural, open space and scenic resources of this Commonwealth; and

WHEREAS, Halfmoon Township has imposed a tax and implemented an Open Space Preservation Program to enable Halfmoon Township to lease conservation easement rights to prevent residential, non-agricultural and non-farm-based commercial, commercial mining or industrial development on open space lands; and

WHEREAS, the Landowner and Halfmoon Township mutually recognize the protection of open space of the Leased Premises as the common purpose of this Agreement, and this common purpose shall guide the actions that shall be taken, and set forth the services that shall be provided to help conserve the character and restrict development activity on the Leased Premises; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, Landowner does hereby demise and lease to Halfmoon Township, and Halfmoon Township does hereby lease from Landowner, for the purpose of leasing the development rights, all of the premises situated in Halfmoon Township, Centre County, Pennsylvania, as more particularly described in Exhibit "A" which is attached hereto and made a part hereof, and hereinafter referred to as the "Leased Premises."

ARTICLE 1 — GENERAL PROVISIONS

1.01. **Meaning of Term "Landowner."** The term "Landowner", as used in this Lease in relation to Landowner's covenants and agreements under this Lease, shall be limited to mean and include only the owner or owners of the fee title to the Leased Premises at the time in

question. In the event of any conveyance of this fee title, Landowner named in this Lease and each subsequent grantor shall be automatically relieved, at the date of the conveyance, of all liability in respect to the performance of any of Landowner's covenants and agreements remaining to be performed after the date of conveyance, and each grantee shall be bound by all of the covenants and agreements remaining to be performed under the Lease during the time of grantee's ownership.

1.02. Relationship of Parties. The relationship of Landowner and Halfmoon Township is solely that of landlord and tenant under this Lease Agreement. Landowner has no interest in Halfmoon Township's enterprises; nor, is Halfmoon Township an agent or representative of Landowner. This Lease Agreement shall under no circumstances be construed as a joint venture or partnership between Landowner and Halfmoon Township.

1.03. Benefit-Burden. This Lease shall inure to the benefit of and be binding on Landowner and Halfmoon Township and their respective distributees, personal representatives, executors, successors, heirs and assigns except as otherwise provided in this Lease.

1.04. Meaning of Term "Agriculture"- Shall mean the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities.

1.05. Meaning of the Term "Open Space" - Shall mean land which has been designated for open space uses in a resource, recreation or land use plan recommended by the Planning Commission, and adopted by the Board of Supervisors, and which may exhibit the characteristics and/or uses as follows: (i) farmland, working farms and agricultural uses; (ii) forests and land being used to produce timber crops; (iii) scenic areas for public visual enjoyment from public rights of way; (iv) undeveloped land areas between communities; (v) the presence of natural or scenic resources including but not limited to soils, streams, flood plains, steep slopes or marshes; (vi) presence of water resources and watershed areas including natural covers which help prevent floods and soil erosion thereby protecting water quality and replenishing surface and ground water supplies; or (vii) sites of particular historic, geologic, animal habitat or botanic interest.

1.06. Waiver of Any Provision Must Be Written. No provision of this Lease shall be deemed to have been waived, unless the waiver is in writing and signed by the party against whom enforcement is sought. No payment by Halfmoon Township or receipt by Landowner of a lesser amount than the rent stipulated in this Lease shall be deemed to be other than for the payment of rent and other charge owing by Halfmoon Township, as Landowner shall elect.

1.07. Amendment of Lease. This easement may be amended only with the written consent of Landowner and Halfmoon Township. Any such amendment shall be consistent with the purposes of this Lease and the Halfmoon Township's contract amendment policies, if any.

1.08. Grammatical Usage. Where the context requires, gender and number shall be deemed interchangeable.

1.09. **Entire Agreement.** This Lease and the Exhibits annexed to this Lease contain the entire agreement between Landowner and Halfmoon Township, and any agreement made after the execution of this Lease between Landowner and Halfmoon Township shall be ineffective to change, modify, waive, release, discharge, terminate, or effect a surrender or abandonment of this Lease, in whole or in part, unless that agreement is in writing and signed by the party against whom the enforcement is sought.

1.10. **Notices.** All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Lease must be given by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth in Article 11. Any notice shall be deemed received on the first attempted delivery. Any party may change the address to which the notices to that party are to be directed by notice given in the manner provided in this Paragraph 1.10.

1.11. **Halfmoon Township's Right of Entry.** Halfmoon Township (and its representatives, employees and invitees) may only enter the Leased Premises as provided in Paragraph 6.01.

1.12. **Public Access.** This Lease Agreement does not convey to the public any right of access to the Leased Premises.

1.13. **Partial Invalidity or Unenforceability.** If any term, covenant, or condition of this Lease shall be invalid or unenforceable to any extent, the remainder of the terms, covenants, and conditions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

ARTICLE 2 — PURPOSE OF LEASE

2.01. The purpose of this Lease is to lease all residential, non-agricultural and non-farm-based commercial, commercial mining, industrial, and non-agricultural development rights on the Leased Premises to prevent all further said development during the term of the leases so that the land shall be preserved, maintained, conserved, promoted and protected for agriculture, farm and agricultural activities, and for all purposes set forth in the Halfmoon Township Ordinance.

2.02. Future uses consistent with these purposes shall be permitted, subject to zoning restrictions, without restriction. Future uses that are inconsistent with these purposes, or that have the potential to interfere or conflict with these purposes, are not permitted under the terms of this Lease.

ARTICLE 3 — DEMISE OF LEASED PREMISES

3.01. **Description of Leased Premises.** Landowner leases to Halfmoon Township, and Halfmoon Township rents and accepts from Landowner, the development rights of land in Halfmoon Township, Centre County, Commonwealth of Pennsylvania ("Leased Premises"), graphically depicted on Exhibit A (map) and Exhibit C (aerial photograph), and more particularly described by either (1) metes and bounds; or (2) a description of the easement's

boundary using setback descriptions from existing deed boundaries or natural or artificial features such as streams, rivers or railroad rights-of-way in Exhibit B, all of which are attached to this Lease and made a part of it. In the event of any inconsistency between the depiction of the Leased Premises in Exhibit A and the description in Exhibit B, the description of the easement's boundaries in Exhibit B shall be the authoritative description. Exhibit C is attached for the purposes of showing the features of the Leased Premises which can be visually identified from an aerial survey, including the structures, roads, fields, groves, fences, ditches, and other improvements, and forest cover that were present and identifiable on the Leased Premises as of the commencement date of this Lease.

3.02. Land Subject to Liens, Encumbrances, and Other Qualifications. This Lease and the Leased Premises are subject and subordinate to:

(a) All present liens, encumbrances, conditions, rights, easements, restrictions, rights-of-way, covenants, other matters of record, zoning and building laws, ordinances, regulations, and codes affecting or governing the Leased Premises, or that may affect and govern the Leased Premises after the execution of this Lease, and all matters that may be disclosed by inspection or survey.

(b) Any statement of facts that an accurate land and/or visual survey may show; present and future laws, ordinances, orders, rules and regulations of any governmental or public authority including, without limitation, those relating to zoning and use provided, however, that such governmental or public authority regulations on use of the Leased Premises shall not alter the permitted and prohibited uses; and any restrictions, covenants and easements of record.

3.03. Not Subject to Future Mortgages. This Lease and the Leased Premises are not subject to future mortgages on the Leased Premises. However, this Lease is subject to existing mortgages (and their renewals, modifications, consolidations and extensions).

3.04. Use of Land.

(a) **Open Space Land.** The Leased Premises must be currently OPEN SPACE land as defined in paragraph 1.05 of this Lease. The land must be conducive for the continuation of the current open space land uses.

(b) **Permitted Uses of the Leased Premises.**

(1) It is the intent of this Lease Agreement that the current uses shall continue, and these properties shall remain available and conducive for the continuation of the current uses. Landowner may make all use of the subject properties subject to zoning restrictions that is consistent with the terms of this Lease and is consistent with the intent of keeping the Leased Premises open space land. It is explicitly understood by both parties that the phrase "keeping the Leased Premises open space land" includes the right to maintain any and all existing buildings, roads, fences, fish ponds and drainage ditches, and to construct and operate barns, fences and other structures or facilities necessary or useful to agriculture and related

activities, subject to obtaining all consents and permits lawfully required therefore. "Maintenance" of roads, fish ponds, and drainage ditches shall include the right to clear, dredge, and reconstruct roads, fish ponds, and drainage ditches of similar sizes and types on or near the current locations.

(2) **Farm Structures.** Nothing in this Lease shall prevent the construction of farm structures necessary for the production, storage, or keeping of livestock and agricultural products. All permits for buildings and/or zoning shall be issued in accordance with the Halfmoon Township Zoning Ordinance in effect at the time of the application for permit.

(3) **Farm Worker Housing.** Nothing in this Lease shall prevent construction of single family residences or dormitory housing for farm workers up to a maximum of two residences or dormitory housing for up to a maximum of eight (8) workers for each 60 acres included in the leased premises. It is strongly recommended that if such residences are built that they be clustered. If this option is exercised and one or more of these dwellings are to be sold, the land upon which these dwellings are built shall not be less than two (2) acres per dwelling unit, including all right of ways, whether in fee simple or otherwise, and shall be subdivided and shall be included in the 10% exception for non-open space use as described in Section 3.04(e).

(4) **Rental Housing.** If the dwellings that were originally constructed to house farm workers are subsequently rented for non-commercial farm use and:

(i) if such dwellings are clustered, then that area upon which they are built, shall not be deducted from the 10% exception for non-open space use; or

(ii) if such dwellings are not clustered, then that dwelling shall not be less than two (2) acres and shall be deducted from the 10% exception for non-open space use.

(5) **Permits.** Any tax parcel of 11 acres or more which when placed into the Open Space Preservation Program did not contain a residence of any type, may be eligible for the issuance of zoning, building and septic permits for one single-family residence provided all applicable building and zoning regulations have been satisfied.

(c) **Prohibited Uses.** Residential, non-agricultural and non-farm-based commercial, industrial, or mining uses as defined in the Halfmoon Township Zoning Ordinance are prohibited uses of the Leased Premises. The Leased Premises shall not be used for any purposes that interfere or conflict with the intent of keeping the Leased Premises open space land, except that:

(1) **Timber Restriction.** Any timber cutting on the subject land for the Landowner's personal or agricultural use shall be without restriction. Timber cutting operations where lumber is sold for use off the property shall be in compliance with the state regulations as set forth under "Best Management Practices of Pennsylvania Forests."

(2) **Commercial Mining Restriction.** The Landowner is permitted to quarry and/or mine materials in a total amount per year of 10,000 tons for agricultural or maintenance uses on the subject land. No material may be mined or quarried for sale off the subject land.

(3) **Outdoor Advertising.** Except for signs identifying the property, or advertising products provided from the open space uses of the property, outdoor advertising and billboards are not permitted. All signs must comply with the Halfmoon Township Zoning Ordinance sign requirements.

(d) **Open Space Land Subdivision Restrictions.**

(1) **10 Acre Minimum Parcel for Subdivision.** No parcel containing less than ten (10) acres shall be subdivided from the Leased Premises.

(2) **Open Space Use Only.** Following subdivision, no parcel shall be used for residential, industrial, non-agricultural and non-farm-based commercial, commercial mining use of any kind for the duration of the Lease, except as provided in subsection (b) above.

(3) **No Sewer or Zoning Permits.** New tax parcels created after the implementation of this Lease shall be ineligible for sewer, building and zoning permits for residential use until after this Lease expires, except as provided in subsection (b) above.

(4) **Township Permit Requirements.** Once the Lease expires, any subdivided parcel(s) shall be subject to compliance with Township requirements before obtaining septic, building or other permits.

(5) **Lot Additions.** It is strongly recommended that any subdivided parcel be done as a lot addition to an adjoining property that is in the Open Space Preservation Program.

(6) **Septic System.** Soil testing for a septic system is not required for this type of agricultural subdivision.

(e) **Subdivision Exception for Lands Placed in the Open Space Program.** Under the Open Space Preservation Program, an exception to subdivide a maximum of ten percent (10%) of the Leased Premises for non-open-space use, may be granted at any time during the Lease term. The requirements are as follows:

(1) The site and configuration of subdivisions proposed under the exception provision in this subsection (e) shall be approved by the Board of Supervisors under the process specified in the applicable ordinance.

(2) The Township shall make rental payments on all of the Leased Premises in the Open Space Program up until the time that the subdivision exceptions are approved by the Board of Supervisors. Afterward, the Township shall no longer make rental payments on any property subdivided under the exception provisions in this subsection (e).

(3) Ten Percent (10%) Subdivision Exception for Non-Open Space Uses.

(i) The Landowner may reserve up to 10% of the preserved land for possible future subdivision for Non-Open Space uses.

(ii) The number of tracts subdivided under this term shall not exceed one (1) per each 60 acres of the parcel of land initially leased under the Open Space Preservation Program.

(iii) The uses to which the subdivided parcel(s) are put must conform to Township Zoning and Subdivision regulations.

ARTICLE 4 — TERM AND RENT

4.01. **Term of Lease.** Halfmoon Township's obligation to pay rent for the Leased Premises in accordance with this Lease shall be for an initial term of ninety-nine (99) years ("Term"), commencing on ____ [date or date of this Lease] and ending on ____ ("Expiration Date"), unless terminated at an earlier date for any reason set forth in this Lease.

4.02. **Lease Extension.** In the event that the Township wants to extend the Lease, it shall give written notice to the Landowner at least ninety (90) days prior to the end of the ninety-nine (99) year term.

4.03. **Rent.** Halfmoon Township shall pay rent to Landowner, without notice or demand and without abatement, reduction, or set-off for any reason, at the office of Landowner or any other place that Landowner may designate in writing.

(a) **Payment Periods.** The rent shall be payable at the following annual rate for the Term of the Lease:

Total Minimum Annual Rent Amount \$ _____ for Leased Premises.

(Minimum Annual Rent Amount per Acre \$ _____.)

Rent shall be payable at this Total Minimum Annual Rent Amount, subject to adjustment as provided in this Article 4. An annual adjustment

to the Minimum Annual Rent Amount shall be performed in accordance with subsection (b).

(b) **Adjustment Clause.** The rent as set forth above shall be adjusted annually at the rate of the percentage rate of increase of the average Consumer Price Index for Northeast Urban consumers. This increase shall govern the rental payment for each subsequent year. All Landowners participating in the Open Space Preservation Program under a Lease will receive the same minimum rent amount per acre per year. Any increases in minimum rent amount per acre under this escalation clause shall be applied at the same time to all acreage under all Leases in the Open Space Program so that the Township pays the same rent to all Landowners at the same time.

Consumer Price Index (hereinafter the "CPI") shall mean the national average CPI for wage earners and clerical workers (CPI-W) as published by the Bureau of Labor and Statistics of the United States Department of Labor using the years 1982-1984=100 as the base period, or if the CPI is no longer published, the index of consumer prices in the United States most closely comparable to said index, after making such adjustments as may be prescribed by the agency publishing the same or as otherwise may be required to compensate for changes subsequent to the commencement date hereof, in items included, or method of computation error. The national average CPI for the quarter proceeding the execution of this Lease, and each anniversary thereof, shall be the comparing CPI for determining the percentage rate of increase in CPI.

(c) **Payment Date.** Rent shall be payable in annual installments in advance on the 30th day of July each year. If this Lease is to commence on a date other than the date when annual payments shall be made, then on the date of commencement, Halfmoon Township shall pay rent for the fractional portion of the year on a per diem basis from the date of commencement until the day when annual payments shall be made.

(d) **Late Charge.** If any payment is not received within 10 days after the date when due, Halfmoon Township shall pay a late charge of five percent (5%) of the most recent Total Minimum Annual Rent Amount. This late charge payment shall be included with the rent payment due, or on the date this Lease is terminated, whichever is earlier.

(e) **Interest on Delinquent Payments.** Unpaid rent installments shall bear interest at the New York Prime Interest Rate per annum, commencing on the tenth (10th) day after each installment was due and continuing until the installment is paid.

4.04 **Changes in Ownership:**

(a) **Transfer of Property.** Any time the Leased Premises, or any interest therein, is transferred by the Landowner to any third party, the Landowner shall notify Halfmoon Township in writing prior to the transfer of the subject property, and the document of conveyance shall expressly refer to this Lease Agreement.

(b) **Conversion of Lease to Conservation Easement:**

(1) Halfmoon Township shall have the right to enter into discussions with the Landowner and/or his or her assigns at any time during the Term of the Lease and/or within five (5) years after termination of the Lease in order to negotiate a permanent conservation easement on the Leased Premises.

(2) At any time during the term of this Lease, the Landowner shall have ~~the right to negotiate a permanent conservation or preservation easement with any~~ conservation group approved by the Township. Upon the finalization of such permanent conservation or preservation easement, and notice to the Township, this Lease will be terminated as if the full term of the Lease had expired under the provisions of this Article 4.

4.05. **Time is of the essence of this agreement.**

4.06 **This Lease is subject to the adequate tax revenues of Halfmoon Township to pay the rent.** In the event that tax revenue collections for Halfmoon Township are inadequate to meet the rent due, Halfmoon Township shall send written notice of this fact to Landowner. At the option of the Landowner, this Lease may be terminated immediately upon receipt of that notice under the default provisions under Article 8, except that no liquidated damages shall be due the Landowner by Halfmoon Township in this event.

4.07. **Termination Provision.** In the event that the Leased Premises are no longer desirable or suitable for Open Space under the Township Open Space Preservation Program, this Lease may be terminated with the mutual assent of the Landowner, and the approval of the Board of Supervisors procured under the review process provided in the applicable Township Ordinance, and in accordance with applicable law.

ARTICLE 5 — LAWS AND GOVERNMENTAL REGULATIONS

5.01. **Responsibilities of Landowner and Halfmoon Township Not Affected.** Other than as specified herein, this Agreement is not intended to impose any legal or other responsibility on the Landowner, or in any way to affect any existing obligation of the Landowner as owner of the subject properties. Among other things, this shall apply to:

(a) **Taxes.** The Landowner shall be solely responsible for payment of all taxes and assessments levied against the subject properties.

(b) **Upkeep and Maintenance.** The Landowner shall be solely responsible for the upkeep and maintenance of the Leased Premises, to the extent it may be required by State health and environmental laws.

ARTICLE 6 — DAMAGE OR DESTRUCTION OF LEASED PREMISES

6.01. **Enforcement.** Halfmoon Township shall have the right to prevent and correct violations of the terms of this Agreement.

(a) **Right of Entry.** With reasonable advance notice to Landowner, as provided herein, Halfmoon Township and/or its representatives may enter the property for the purpose of inspecting for violations. Said entry is limited to one visit every five (5) years, which shall be for a duration of up to six (6) hours to physically inspect the Leased Premises to ensure that all provisions of this Lease have been and are being met by the Landowner. Said entry shall be preceded by written notice to the Landowner of Halfmoon Township's desire to enter the Leased Premises, which shall be received by the Landowner no less than thirty (30) calendar days in advance of the proposed date of the visit, and shall be arranged at a time and on a date that is convenient to the Landowner. Halfmoon Township has the right to monitor the Leased Premises and all activities that take place on or near the Leased Premises at any time by an aerial survey. This right allows Halfmoon Township and/or its designated representatives to fly over the Leased Premises for the purposes of visual inspection and/or aerial photography, providing that said overflights are conducted in such a way so as not to disturb or interfere with the Landowner's agricultural operations and/or other bona fide business activities, and the Landowner's right to the quiet and peaceable enjoyment of his or her property. In the event such usual inspection and/or aerial photograph reveal non-compliant activity, Halfmoon Township and/or its representatives shall have an additional right to inspect the property.

(b) **Remedies.** If Halfmoon Township finds what is a violation, it may at its discretion take appropriate legal action. Except when an ongoing or imminent violation could irreversibly diminish or impair the open space value or character of the Leased Premises, Halfmoon Township shall give the Landowner written notice of the violation and ninety (90) days to correct it, before filing any legal action. If a court with jurisdiction determines that a violation may exist or has occurred, Halfmoon Township may obtain an injunction to stop it, temporarily or permanently. A court may also issue an injunction requiring the Landowner to restore the Leased Premises to its condition prior to the violation. Further, a court, in addition, may impose a fine in an amount not to exceed the cost of restoration. The failure of Halfmoon Township to discover a violation or to take immediate legal action shall not constitute a waiver of its rights of enforcement nor bar it from enforcing the provisions of this lease at a later time.

6.02. **Acts of God.** Nothing in this Lease shall require Halfmoon Township or Landowner to take any action to restore the condition of the Leased Premises after any Act of God or other event over which they had no control.

ARTICLE 7 — CONDEMNATION

7.01. **Interests of Parties.** If the Leased Premises or any part of these premises is taken for public or quasi-public purposes by condemnation in any action or proceeding in eminent

domain, or is transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of the Landowner and Halfmoon Township in the award or consideration for the taking or transfer and the effect of the taking or transfer on this Lease shall be governed by this Article 7.

7.02. Termination on Total Taking. If all or substantially all of the Leased Premises are taken by condemnation, all of the rights, title and interest under this Lease shall cease on the date that title to the Leased Premises vests in the condemning authority. For the purposes of this Article 7, "all or substantially all of the Leased Premises" shall be deemed to have been taken if no tract of eleven (11) contiguous acres or more, suitable for open spaces, remains.

7.03. Termination on Partial Taking. If less than all or less than substantially all of the Leased Premises is taken or transferred as described in Paragraph 7.01, and if in Halfmoon Township's opinion, the remainder of the Leased Premises is in a location, or in a form, shape or reduced size that makes it impossible to effectively and practicably continue agricultural activities on the remaining Leased Premises, then this Lease shall terminate on the date title to the portion of the Leased Premises taken or transferred vests in the condemning authority.

7.04. Continuation With Rent Abatement After Partial Taking. If less than all or substantially all of the Leased Premises is taken or transferred as described in Paragraph 6.01, and if in Halfmoon Township's opinion the remainder of the Leased Premises is in a location and a form, shape, or size that makes it possible to effectively and practicably continue agricultural activities on the remaining Leased Premises, this Lease shall terminate as to the portion of the Leased Premises taken or transferred as of the date title to the portion vests in the condemning authority. However, this Lease shall continue in full force and effect as to the portion of the Leased Premises not taken or transferred. From and after the date of taking or transfer, the rent required to be paid by Halfmoon Township to Landowner shall be reduced during the unexpired portion of this lease by that proportion of the annual rent that the value of the part of the Leased Premises taken or transferred bears to the value of the total Leased Premises. These values shall be determined as of the date immediately before any actual taking.

7.05 Voluntary Conveyance. Nothing in this Article 7 prohibits Landowner from voluntarily conveying all or part of the Leased Premises to a governmental unit, public utility, agency, or authority under threat of taking under the power of eminent domain. Any voluntary conveyance shall be treated as a taking within the meaning of this Article 7.

ARTICLE 8 — DEFAULT

8.01. Event of Default. Halfmoon Township's failure to pay rent within ninety (90) days after the rent becomes due and payable in accordance with the terms, covenants, and agreements of this Lease shall constitute a default under this Lease, unless the failure to pay rent by Halfmoon Township is due to inadequate tax revenues under Paragraph 4.07. In this event, the lease is considered terminated.

8.02. Notice of Election to Terminate Halfmoon Township's Rights. Subject to the provisions of this Article 8, if an event creating default occurs, Landowner may elect to terminate Halfmoon Township's rights under this Lease after one hundred twenty (120) days from the date of service of notice of the election. If this notice is given, all of Halfmoon

Township's rights, responsibilities and obligations in and to the Leased Premises shall expire completely at the expiration of the one hundred twenty (120) days, and any and all rights to limit or prevent residential, industrial, mining and non-agricultural development or use prohibited under the terms of this Lease shall be terminated.

8.03. Halfmoon Township's Liability for Accrued Rent. The expiration of this Lease or termination of Halfmoon Township's rights pursuant to Paragraphs 4.01, 4.07, 7.02, 7.03, 7.04, 7.05 or 8.02 of this Lease shall not relieve Halfmoon Township of its liability and obligation to pay the rent and any other charges accrued prior to these events. These liabilities and obligations of Halfmoon Township shall survive any expiration or termination of the Lease or any entry and possession of Landowner. In addition, if the failure of Halfmoon Township to make payment is not a result of a reduction in available tax revenues, as referenced at Paragraph 4.07, Halfmoon Township shall compensate the Landowner as liquidated damages in an amount equal to one half of one percent (0.5%) of the most recent Total Minimum Annual Rent Amount, as calculated under 4.03(d), for each month that payment is overdue.

8.04. Waiver of Jury Trial. Landowner and Halfmoon Township waive any right to trial by jury in any action, proceeding or counterclaim brought by either against the other as to any action or matter arising out of or related to this lease agreement or arising out of the relationship of landlord and tenant as between Landowner and Halfmoon Township, Halfmoon Township's use or occupancy of the land and any claim or injury, death or damage.

8.05. Waiver of Default. No waiver of default by Landowner to Halfmoon Township of any breach of any term, condition or covenant in this Lease shall be deemed to be a waiver of any other breach of the same or any other term, condition or covenant contained herein. No waiver of default by Landowner to Halfmoon Township for the breach of any term, condition or covenant in this Lease Agreement shall be done except in writing.

8.06. Arbitration. All disputes, claims and questions regarding the rights and obligations of the parties are subject to arbitration. In case of dispute, either party may make a demand for arbitration by filing such demand in writing with the other party. If the parties agree on a single individual selection, there shall be one arbitrator. If no agreement as to an arbitrator is reached within thirty (30) days after demand for arbitration, there shall be three (3) arbitrators, one named in writing by the Landowner and the second by Halfmoon Township within forty-five (45) days after demand for arbitration, and a third chosen by the two who are appointed. The single arbitrator's decision shall be binding; if there are three arbitrators, the decision of any two of them shall be binding. No one shall act as an arbitrator who in any way has a financial or ownership interest in the subject properties. Should either party refuse or neglect to appoint an arbitrator or to furnish the arbitrators with any necessary papers or information, they are empowered by both parties to proceed *ex parte*. The decision of the arbitrators shall be a condition precedent to any right of legal action that either party may have against the other. The compensation for the services of the arbitrators shall be set as agreed upon by all parties, and the costs and charges of the arbitration shall be assessed equally between both parties.

ARTICLE 9 — EXPIRATION OF TERM

9.01. Requirements on Cessation or Termination of Lease. Halfmoon Township agrees that on the expiration or termination of this Lease Agreement ("Expiration Date")

Halfmoon Township will be a trespasser (without any holdover right) if Halfmoon Township enters the Leased Premises.

ARTICLE 10 — DOCUMENTATION AND RECORDING OF LEASE

10.01. **Estoppel Certificates.** Landowner or Halfmoon Township shall have the right to request the other party to provide an estoppel certificate, as described below, without charge ___ days after requesting party sends a written notice. This estoppel certificate shall consist of a written statement certifying the following information to the requesting party or to any person specified by that party:

- (a) That this Lease is unmodified and in full force and effect; or, if there have been any modifications in this Lease, that this Lease is in full force and effect as modified, specifying the nature of each modification.
- (b) The date through which the rent and other charges payable under this Lease have been paid.
- (c) Whether the other party to this Lease is in default in the performance or observance of any covenant, agreement, condition, term, or provision contained in this Lease, to the best knowledge of the certifying party, and, if so, specifying the nature of each default the certifying party has knowledge of.
- (d) Any other information with respect to this Lease and the Leased Premises that the requesting party shall reasonably request.

10.02. **Memorandum of Lease and Recording.** As soon as practicable after execution of this Lease, Landowner and Halfmoon Township shall execute, in recordable form, a Memorandum of Lease in the form annexed to this Lease as Exhibit D, Halfmoon Township shall record the Memorandum of Lease in the Recorder of Deeds Office of Centre County, Pennsylvania.

ARTICLE 11 - NOTICES

11.01. **Notices and Addresses.** All notices provided to be given under this agreement shall be given by certified mail or registered mail, addressed to the property party, at the following address:

Landowner: _____

Halfmoon Township: **HALFMOON TOWNSHIP**
100 Municipal Lane
Port Matilda, PA 16870-9518

ARTICLE 12 - COAL MINING

12.01. **Development of Coal Interests.** The following notice is given to and accepted by Landowner for the purpose and with the intention of compliance with the requirements of the Conservation and Preservation Easements Act. Nothing herein shall imply the presence or absence of workable coal seams or the severance of coal interests from the property.

Notice: This Conservation Easement may impair the development of coal interests, including workable coal seams or coal interests which have been severed from the property.

By: _____
Landowner's Signature

Date: _____

IN WITNESS WHEREOF, Landowner and Halfmoon Township have executed and signed this Lease or have caused this Lease to be executed and signed on the _____ day of _____, 20__.

WITNESS/ATTEST:

LANDOWNER:

HALFMOON TOWNSHIP:

By: _____

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF)

: SS.

On this, the _____ day of _____, 20__, before me, the undersigned officer, a Notary Public, personally appeared _____ [Landowner], and acknowledged that he/she executed the foregoing Conservation Lease Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC
My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA)
: SS.
COUNTY OF)

On this, the _____ day of _____, 20____, before me, the undersigned officer, a Notary Public, personally appeared _____ [Landowner], and acknowledged that he/she executed the foregoing Conservation Lease Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC
My Commission Expires:

ACCEPTED this _____ day of _____, 20____, at its Regular Meeting of the Halfmoon Township Board of Supervisors.

ATTEST:

Secretary

COMMONWEALTH OF PENNSYLVANIA)
: SS.
COUNTY OF)

On this, the _____ day of _____, 20____, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of the Halfmoon Township Board of Supervisors, and that he/she, as _____ of the Board of Supervisors and being authorized to do so, executed the foregoing Conservation Lease Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

NOTARY PUBLIC
My Commission Expires:

ATTEST: _____
Secretary

{SEAL}

Date: _____

