

## SAMPLE SUBORDINATION AGREEMENT

This Agreement is entered into by and among \_\_\_\_\_ Bank or Credit Union, with an office located at \_\_\_\_\_ (“Mortgagee “); and Landowner Name, a married/single person, whose mailing address is \_\_\_\_\_ (“Mortgagor”); and the Fayette County Rural Land Management Board, Inc., a non-profit Kentucky corporation, with its principal office located at 200 East Main Street, Lexington, Kentucky 40507 ("Board").

WHEREAS, Mortgagor is the owner of that certain real property in Fayette County, Kentucky described in Exhibit A attached hereto and incorporated by this reference (“Property”); and

WHEREAS, Mortgagee is the holder of certain promissory notes made by Mortgagor which are secured by that certain First Mortgage encumbering the Property dated as of \_\_\_\_\_, of record in Mortgage Book \_\_\_\_\_, page \_\_\_\_ in the Fayette County, Kentucky Clerk's Office (as amended, the "Mortgage"); and

WHEREAS, concurrently with this agreement, Mortgagor is conveying a conservation easement over the Property to the Board pursuant to a Deed of Agricultural Land Easement from the Mortgagor to the Board to be recorded immediately preceding this Agreement in the aforementioned Clerk's Office, the (“Easement”); and

WHEREAS, upon Mortgagors' request, Mortgagee has consented to subordinate the Mortgage to the terms of the Easement, which Mortgagee has reviewed and approved; and

WHEREAS, the Easement, which would not otherwise be conveyed by Mortgagor nor accepted by Land Trust, is being conveyed and accepted in reliance on this Agreement;

NOW THEREFORE, in consideration of the above and the mutual covenants and promises contained herein, and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is represented and agreed as follows:

1. The Mortgage is subordinated and hereafter shall be junior to the Easement to the extent necessary to permit Board to enforce the purpose of the Easement in perpetuity and to prevent any modification or extinguishment of the Easement by the exercise of any right of Mortgagee.

2. The priority of the Mortgage with respect to any valid claim on the part of Mortgagee to the proceeds of any sale, condemnation proceedings, or insurance, or to the leases, rents, and profits of the Property, is not affected hereby, and any lien that may be created by Board's exercise of any of its rights under the Easement shall be junior to the Mortgage; provided, however, (i) that if the Easement is terminated under the circumstances described in Paragraph 11.4 of the Easement, Board shall be entitled to compensation in accordance with the terms set forth therein and (ii) Board shall be entitled to its share of condemnation proceeds computed in accordance with Paragraph 11.4 of the Easement.

3. Mortgagee shall not be joined as a defendant in any action to enforce the Easement seeking damages, fees, or costs of any kind, and the Mortgage shall have priority over any judgment entered for any costs, fees, or damages under the Easement, unless the violation representing the grounds for the action was caused by Mortgagee or its agents or employees.

4. If at any time an action to enforce the Easement, Board obtains injunctive relief requiring that the Property be restored in any respect, Mortgagee shall not be held liable for any costs of restoration, regardless of who is in possession of the Property, unless Mortgagee or its agents or employees is responsible for the condition requiring restoration.

5. In the event of the foreclosure of the Mortgage, whether by judicial decree or pursuant to a power of sale, the Easement shall not be extinguished but shall survive and continue to encumber the Property.

6. Mortgagor agrees to provide a copy of any notices or written communications required under the Easement to Mortgagee addressed as follows:

(Address of Lender)

or to such other address as Mortgagee from time to time shall designate by written notice to Mortgagors.

7. If circumstances arise under which an amendment to or modification of the Easement would be appropriate, Mortgagors and Board may by mutual written agreement jointly amend the Easement provided that any amendment to or modification of the Easement shall comply with the requirements outlined in Section 18.5 of the Easement.

8. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns.

9. This Agreement shall be recorded immediately after the Easement.