STATE OF NORTH CAROLINA
COUNTY OF _____
Prepared by and return after recording to:
Blane Rice, State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

CONSERVATION EASEMENT OPTION AGREEMENT
Ecosystem Enhancement Program
SPO File Number
EEP Project ID Number

THIS OPTION AGREEMENT, hereinafter referred to as Option, made and entered into this _____ day of _____, 201__ by and between _____ hereinafter referred to as the **Seller**, and the **State of North Carolina**, and its successors and assigns, hereinafter referred to as the **State.**

WITNESSETH

In consideration of $10.00 and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and of the agreements contained in this Option, **Seller** hereby grants to the **State**, its successors and assigns, the exclusive right and option to receive a perpetual **Conservation Easement** over mutually agreed upon lands owned by the **Seller**, hereinafter referred to as the **Parent Tract**. The **Conservation Easement** shall perpetually protect those lands hereinafter referred to as the **Easement Area.** The **Parent Tract** is located in _____ County, North Carolina and contains _____ acres, more or less. The **Parent Tract** subject to the **Conservation Easement** is more particularly described as follows:

Being an approximate _____ acre tract or parcel of land identified as _____ on a survey plat entitled _____, prepared by _____, dated _____, recorded in Plat Book _____, Page _____, _____ County Registry. *(Remove if no recorded survey is available.)* The property is further described in a deed from _____to _____, recorded in Deed Book _____, Page _____, _____County Registry. Property is also identified as being Tax Parcel Number _____.

Being a perpetual **Conservation Easement** that will permanently protect the restoration, enhancement or preservation of *(insert name of Creek, Stream, River, or Wetland, as applicable),* located *(insert reference to road, landmark or other brief description).* It is estimated that the Conservation Easement will protect a ___-acre portion of the **Parent Tract**, containing the creek, its tributaries, and wetlands. The Conservation Easement area will be mutually agreed upon by the parties. Although the boundaries of the easement area are subject to survey, the parties agree that the conservation easement will protect the general area shown on "**Exhibit A",** attached hereto.

The following terms, provisions, and conditions are further agreed to:

1. **OPTION PERIOD**. This option shall remain in effect from the date that this Option has been executed by the **Grantor** until the **_____ day of _____ 201__.** This Option shall be exercised upon posting, by certified mail, a written notice to the **Grantor** at the following address: **_____**. Exercise shall be deemed timely if such written notice is mailed on or before the date first set forth in this paragraph.

2. **PURCHASE PRICE**. The total purchase price for the **Easement Area** shall be the sum of **$_____, (_____Dollars)** per acre subject to final survey. (**$ _____** per acre). **(If donation, Seller elects to decline full fair market value compensation by placing initials here _____.)**

3. **CLOSING**. A closing of the sale of this **Conservation Easement** under this Option shall be held within **90 days** of the exercise of this Option; provided, however, in the event of objections to title or condition of land at closing, and diligent efforts on **Seller's** part to cure said objections, a closing shall be held within a reasonable time following the removal of said objections.

4. **EVIDENCE OF TITLE**. Upon receipt of this signed Option, the **State** will have title to the Parent Tract examined, and if applicable, obtain a preliminary title insurance commitment. The title examination and/or commitment must evidence the **Seller's** good and marketable title to the Parent Tract and the Seller's ability to convey a conservation easement and right of access at closing as set forth below. All costs necessary to procure the title examination and, if applicable, the title commitment and final title insurance policy to be issued at closing, shall be the responsibility of the **State**.

5. **TITLE**. At closing, the **Seller** shall convey a valid and enforceable **Conservation Easement** and Right of Access together with all rights necessary to protect the **Easement Area** in perpetuity, including legal access, all mineral rights and all development rights, to the **State** free and clear of all liens, encumbrances, restrictions, rights, or exceptions except those of record that are acceptable to the **State**.

6. **TITLE DEFECTS**. If for any reason the **Seller** does not have good, marketable and insurable title at closing as required by Paragraph 5 of this Option, the **State** may elect to a) accept the **Conservation Easement** with title as is; b) refuse to accept the **Conservation**

Easement; or c) allow the **Seller** additional time to pursue reasonable efforts to correct the problem, including bringing any necessary quiet title actions or other lawsuits.

7. **SUBJECT TO SURVEY AND DESIGN**. It is understood and intended that the final **Easement Area** and **Conservation Easement** under this option is subject to final design, approval and survey by the **Ecosystem Enhancement Program** with these costs paid by the **State.**

8. **DOCUMENTS FOR CLOSING**. The **Seller** shall execute and deliver at closing a **Conservation Easement and Right of Access**, any owner's affidavits or documents required by a title insurance company to remove the standard title policy exceptions, and any other documents necessary to close in accordance with the terms of this Option. These documents will be prepared at the expense of the **State**.

9. **PROPERTY TAXES.** Any delinquent real estate taxes and all levied assessments are the **Seller**'s responsibility and should be satisfied of record by the **Seller** at or before closing. Any deferred taxes on the **Easement Area**, which become due as a result of this conveyance, shall be the responsibility of the **Seller**. Real estate taxes for the year in which the transaction is closed shall be the responsibility of the **Seller** and not prorated, as the **State** is not receiving fee simple title.

10. **MISCELLANEOUS CLOSING EXPENSES.** The **Seller** will pay any documentary stamp tax, real estate transfer fee or any similar charge due upon conveyance of title to the **State**. The **State** will pay recording fees.

11. **POSSESSION.** The **Seller** will deliver possession of the **Easement Area** to the **State** at closing subject to no leases, mortgages, liens or other reserved rights, except those of record that are acceptable to the State and in the condition set forth below in Paragraph 12.

12. **CONDITION OF PROPERTY/RISK OF LOSS.** The **Seller** shall not transfer or encumber any interests in the **Easement Area** after executing this Option Agreement and prior to closing. The **Seller** shall keep the **Easement Area** in its current condition until closing and shall prevent and refrain from any use of the **Easement Area**, for any purpose or in any manner that would diminish its value or adversely affect the **State's** intended uses.

    In the event of any adverse change in the condition of the **Easement Area**, whether said change is caused by **Seller** or by forces beyond **Seller's** control, the **State** may elect to a) refuse to accept the property; b) accept the Property, or a portion thereof, in which case there may be an equitable adjustment of the purchase price based on a change in circumstances; or c) require restoration of the Property to its condition at the time this Option was granted.

13. **RIGHT OF ENTRY AND INSPECTION.** The **State** and its agents shall have the right to enter upon the Property at reasonable times for surveying, engineering, conducting environmental inspections and assessments to detect hazardous or toxic substances, and other reasonable purposes related to this transaction. Based upon the results of the environmental inspections and assessments, or upon other conditions revealed to be unsuitable to the **State**, the **State** may elect to refuse to accept the **Easement Area**.

14. **REMEDIES.** In addition to any other remedy specifically set forth in this Option, the **State** has the right to enforce the provisions of this Option through an action for specific performance, injunctive relief, damages, contribution or any other available proceedings in law or equity. The election of any one remedy available under this Option shall not constitute a waiver of any other available remedies.

15. **BINDING EFFECT.** This Option becomes effective when signed by the **Seller** and shall then apply to and bind the **Seller** and **Seller's** heirs, executors, administrators, successors, and assigns.

16. **COMPLETE AGREEMENT.** This Option constitutes the sole and complete agreement between the parties and cannot be changed except by written agreement. The **Ecosystem Enhancement Program** promotes the preservation, restoration and enhancement of streams and/or wetlands. Any representations, contracts or agreements created by or for the **Ecosystem Enhancement Program** are exclusive of this option unless specifically incorporated herein by exhibit. NOTE: If there is a letter of intent, reference it here and incorporate it as an exhibit. If not, delete the sentence within this highlighted area.

17. **NO WAIVER.** No provision of the Option shall be deemed amended or waived unless such amendment or waiver is set forth in a writing signed by the **State**. No act or failure to act by the **State** shall be deemed a waiver of its rights hereunder, and no waiver in any one circumstance or of any one provision shall be deemed a waiver in other circumstances or of other provisions.

18. **ASSIGNMENT.** The **State** has the right to assign this Option. In the event of such assignment, the assignee will have all the rights, powers, privileges and duties held by the **State** pursuant to this Option.

IN TESTIMONY THEREOF, the parties have hereunto set their hands and seals, or if corporate have caused this instrument to be executed in their corporate names by their duly authorized representatives as of the dates indicated below.

Seller

By: _____
Seller's name

By: _____
Additional seller's name

NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the _____ day of _____, 2011.

_____
Notary Public

My commission expires:

_____

NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the _____ day of _____, 2011.

_____
Notary Public

My commission expires:

_____