

**Southeastern Pennsylvania
Resource Conservation and Development
Conservation Planting Trailer and Equipment Use Agreement**

This Agreement is made this _____ day of _____, 20____ by and between the Southeastern Pennsylvania Conservation & Development Council (LENDER) and _____ (USER) for the USER's temporary use of the LENDER's material and equipment identified herein subject to the following terms and conditions:

1. USER. The USER shall be an annual member of the Southeastern Pennsylvania Conservation & Development Council, or have a local Conservation District as its active partner. The USER is identified as follows:

Name: _____

Address: _____

Phone: _____

Email: _____

2. Driver. The USER's Driver is identified as follows:

Name: _____

Address: _____

Phone: _____

Driver License Number: _____

3. Tow Vehicle. The USER's Tow Vehicle is identified as follows:

Make: _____

Model: _____ Year: _____

Color: _____ Tag Number: _____

Copy of Pennsylvania Financial Responsibility Identification Card (See Item 15) _____

4. PROJECT DESCRIPTION _____

Estimated Number of Volunteer Hours: _____

Estimated Number of Volunteers: _____

- 5. Equipment.** The Equipment collectively includes the following items and material:
- a. **Trailer** - The Trailer is a 2009 Cargo Express Trailer Pro Series Single Axle (VIN #4U01C12139A039585 and Pennsylvania Vehicle Tag Number XGJ-0874), customized for the purposes stated herein. The Trailer shall be towed by a vehicle capable of towing 3,000 lbs. or greater.
 - b. **Tools** – The Trailer is stocked with hand tools, power tools, and safety equipment, including, but not limited to: Power Equipment (Chain Saw, Power Auger, Roto-tiller, String Trimmers, and Water Pump); Hand Tools (Shovels, Pole Saws, Sledge Hammers, Rakes, Pruning Saws, Measuring Wheel, Trowels, Wheel Barrow, Broad-cast Seeder, Pitch Forks, Hand Pruners); and Safety Equipment (First Aid Kit, Hearing Protection, Safety Glasses, Safety Signs, Safety Vests, Chain Saw Chaps, Fire Extinguisher, Hard Hats, Eye Wash Kit and Safety Cones).
- 6. Period of Possession.** USER's possession of the Equipment shall commence upon the date of pick-up, which is anticipated to be the ____ day of _____, 20__ and shall terminate upon the date of return of the Equipment which shall be no later than the ____ day of _____, 20__. If the LENDER requires the Equipment to be returned by an earlier date than specified by this Agreement, this Agreement shall be terminated and LENDER shall notify USER as soon as possible of the date the Equipment must be returned and allow USER adequate time to make arrangement for the return of the Equipment.
- 7. Inventory.** USER agrees to inventory the Equipment before and after use. An inventory check list will be provided for USER by LENDER. USER shall check off the number of major items that are removed from the Trailer and mark them off as they are returned. Consumables provided with the Equipment include oil mix for 2-cycle engine fuel, first aid items, string trimmer line, and chain bar oil. LENDER will keep the consumables stocked in the Trailer. Fuel cans are included with the Equipment, but the USER is expected to provide its own fuel. Care should be taken to mix the fuel properly before use in any of the power equipment. Extra fuel may be left in the fuel cans.
- 8. Inspection by User.** LENDER provides no warranty at all, either express or implied with respect to the condition of the Equipment or its adequacy for the USER's purposes. USER acknowledges that it has inspected the Equipment and has determined it to be safe and satisfactory for all of USER's purposes. USER accepts the Equipment "as is."
- 9. Altering or Defacing Equipment.** USER shall not alter, modify, deface, or otherwise change any aspect of the Equipment, including numbering, lettering, markings, or graphics on the Equipment.
- 10. Purpose of Use.** USER agrees to use the Equipment only for purposes authorized by LENDER which include providing assistance to groups and organizations in restoring riparian buffers and other environmentally sensitive areas by loaning USER the necessary tools and equipment to plant native trees, shrubs, and flowers that will help improve water quality in streams, ponds, and wetlands and create beneficial habitat for wildlife and aquatic life.
- 11. Use.** USER agrees that the Equipment will be used in accordance with its design and intended purpose, and in compliance with all applicable laws and regulations. USER warrants that it has the necessary and proper vehicle and equipment for towing or transporting the Trailer. USER warrants that the driver of the vehicle transporting the Trailer is capable of operating said vehicle with the Trailer. Drivers of vehicles towing the Trailer must be at least 18 years of age, possess a valid driver's license with a minimum of two years licensed driving experience and have a good driving record. USER agrees that staff or volunteers acting on behalf of the USER will be with the trailer at all times. Door locks and hitch locks are included with the Trailer. The

USER shall use the locks and keep the keys with the driver of the towing vehicle. Whenever the Trailer is disconnected from the tow vehicle, the USER shall properly place the provided wheel chocks in place to prevent Trailer movement. USER agrees that individuals operating the Equipment understand proper use and operation of the Equipment and recognize any potential hazards posed by operation of the Equipment.

12. Notification of Use. USER agrees to notify the local governing authority of the project dates, times and location. USER shall apply for and receive any required local permits authorizing such projects.

13. Maintenance and Repair. USER is responsible for maintaining the Equipment in working condition while said Equipment is in its possession. USER agrees to make every reasonable effort to keep the equipment in good repair and operating condition.

14. Loss or Damage. LENDER acknowledges the Equipment will be subject to normal wear and tear from use and the LENDER will not hold USER liable for any decrease or loss in the Equipment's value due to normal use by USER. USER agrees and understands that if the Equipment and/or other related items are stolen, vandalized, misplaced, or unreasonably damaged or destroyed, USER's liability will be the reasonable market value of the Equipment as of the date of loss. If the Equipment sustains accidental damage from use, USER will make all attempts to repair the equipment to the satisfaction of the LENDER.

15. Title. Title to the Equipment will at all times remain with LENDER. USER will give LENDER immediate notice of any claim, levy, lien or legal process issued against the Equipment. The Equipment is and will remain for the term of this Agreement personal property, notwithstanding any attachment of it or part of it to real property or improvements on such real property.

16. Insurance. USER will, at USER's own expense, maintain liability and such other insurance as necessary for USER's protection and protection of the Equipment. USER agrees to maintain sufficient property and casualty and liability insurance to cover any loss, damage or other mishap to the Trailer while it is in transit to and/or from its location of use. USER shall provide LENDER with a copy of its Pennsylvania Financial Responsibility Identification Card or other proof of vehicle insurance with collision coverage. Failure to carry adequate insurance will not relieve USER of liability as provided for in this Agreement.

17. Indemnification. USER agrees to indemnify and hold LENDER and its past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns harmless from and against any and all loss, cost, damage, expense, suits and claims for injury to persons, (including injury resulting in death) and damage to property where such loss, cost, damage, expense, suits and claims arises out of or in connection with USER's use of the Equipment as specified in this Agreement, except to the extent any such loss, damage, cost or expense, or claims of liability, including attorney's fees resulting from bodily injury to or death of any person or damage to any property, is caused by the negligent acts or omissions of LENDER or its employees or agents; provided, however, that LENDER shall have the right, at its expense, to participate in the defense of any litigation instituted against it without thereby relieving USER of its obligations under this paragraph.

18. Assignment. USER shall not assign this Agreement or any interest in this Agreement or transfer possession of the Equipment to another party. USER shall not give or provide any part of the Equipment to unauthorized users.

19. Surrender of Equipment at End of Agreement. USER agrees that on termination of this Agreement, or upon request of the LENDER, to deliver the Equipment back to LENDER in

good condition allowing for reasonable wear and tear, and free and clear of encumbrances. USER agrees to ensure Equipment is returned to LENDER ready for use.

20. Project Completion Documentation. USER agrees to report the completion of all riparian buffer projects in the Stream ReLeaf Database. USER shall provide LENDER with a copy of the completion report as well as the name of the owner of the land upon which the project was completed and the name of the project. USER shall provide LENDER with photographic documentation of the project, including images that include the Trailer. Photographs shall be submitted to LENDER in *.jpg format to pa@separcd.org for publicity and grant documentation purposes.

21. LIMITATION OF WARRANTIES. THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, BY LENDER TO USER, EXCEPT AS SPECIFICALLY CONTAINED IN THIS AGREEMENT, AND LENDER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO USER, NOR TO ANYONE ELSE, OF ANY KIND AND HOWEVER CAUSED, WHETHER BY ANY VEHICLE OR EQUIPMENT, ITS REPAIR, OR MAINTENANCE.

22. Governing Law. This Agreement shall be governed by and construed under the laws of the Commonwealth of Pennsylvania. In the event that a dispute shall arise concerning the terms, conditions or performance under this Agreement, then the dispute shall be settled in the Court of Common Pleas of Bucks County, Pennsylvania or the Federal District Court for the Eastern District of Pennsylvania.

23. Nonwaiver. Failure of either party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a waiver of such term, condition, right or privilege in the future.

24. Severability. In the event any term, condition, provision or clause of this Agreement is held invalid or unenforceable, for whatever reason, such provision shall be deemed deleted from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.

25. Section Headings. All section headings in this Agreement are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

26. Entire Agreement. This Agreement embodies the entire agreement between the parties. It may not be modified or terminated except as provided in this Agreement or by other written agreement. If any provision of this Agreement is invalid it will be considered deleted from this Agreement, and will not invalidate the remaining provisions.

The parties hereto have caused this Agreement to be executed in duplicate the day and year first above written.

USER

LENDER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____