

Prepared by:

DEED OF EASEMENT RESTRICTION AND ENROLLMENT

THIS DEED OF EASEMENT RESTRICTION AND ENROLLMENT, (“Deed of Easement”) is made this _____ day of _____, 20__ between _____, whose address is _____, hereinafter referred to as “Seller,” and the Township of Woolwich Transfer of Development Rights Bank whose address is 120 Village Green Drive, Woolwich, New Jersey 08085, hereinafter referred to as TDR Bank. This deed is made pursuant to the State Transfer of Development Rights Act, N.J.S.A. 40:55D-137 et seq. and the Township of Woolwich Voluntary TDR Program Ordinance Section 203-51 et seq.

WHEREAS, Seller is the owner of a certain real property, consisting of _____ acres of land located in the Township of Woolwich, County of Gloucester, State of New Jersey, with an address of _____ and more specifically identified on the Tax Maps of the Township of Woolwich as

BLOCK	LOT

and described in Schedule A (hereinafter referred to as the “Premises”); and

WHEREAS, the Premises are located within a Sending Zone under the Township of Woolwich Transfer of Development Rights (“TDR”) Ordinance permitting Seller to create _____ transferrable development credits by enrolling the Premises in the TDR program; and

WHEREAS, Seller wishes to enroll the Premises within the program, understanding that by recording this Deed of Easement, the Seller is creating transferable development credits but is also restricting the use of the land in the fashion provided by this instrument; and

WHEREAS, Seller feels it is appropriate to enroll within the program for the mutual benefit of the seller and others affected and to set forth in this instrument the respective rights and responsibilities envisioned by this undertaking.

NOW, THEREFORE, Seller declares that the Premises shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, and obligations hereafter set forth. The uses permitted in this Deed of Easement will continue to be authorized on the Premises as set forth herein following recordation of this Deed of Easement. Seller for Seller and all future owners, transferees, assigns and devisees shall hold the Premises subject to these restrictions and agrees that:

1. General Provisions

- a. Any development or use of the premises in a manner inconsistent with the provisions set forth herein is expressly prohibited.
- b. Any development or use authorized herein shall obtain all necessary approvals.

2. Agricultural Use Provisions

- a. The Premises shall be retained for agricultural use and production. “Agricultural Use” means the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.
- b. The use of the Premises for agricultural management practices as have been and continue to be promulgated by the New Jersey State Agriculture Development Committee pursuant to its authority under N.J.A.C. 2:76-2.1

et seq., N.J.A.C. 2:76-2A.1 et seq., N.J.A.C. 2:76-2B.1 et seq. and the Right to Farm Act (N.J.S.A. 4:1C-1 et seq.) is expressly permitted.

- c. The use of the Premises to plant, grow, and harvest trees, timber and forest products and to engage in other woodland and forest management activities related thereto shall be permitted provided that the same are carried out in a manner consistent with the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.1 et seq.).
- d. New buildings for non-residential agricultural purposes may be constructed on the Premises subject to the other provisions of this Deed of Easement.
- e. The construction of new buildings for the provision of temporary or permanent housing of agricultural labor employed by the Seller or operator of the agricultural operation is authorized provided all necessary approvals are obtained. Such housing shall not be used as a residence for the Seller, Seller's spouse, siblings, Seller's parents, Seller's lineal descendants, adopted or natural, Seller's spouse's siblings, parents, Seller's landowner's spouse's lineal descendants, adopted or natural.
- f. To the extent permitted by the zoning ordinance or the Right to Farm Act, fences may be constructed in support of the agricultural operation and to prevent trespassing. If any public areas have been designated on the Premises, Seller may not erect fences to block access by the general public to said public areas on the Premises.

3. Open Space Use Provisions

- a. To the extent permitted by the zoning ordinance, the Premises may be used for certain outdoor recreational activities such as hunting, fishing, cross country skiing, hiking, biking and ecological tours, only if such activities do not interfere with the actual or potential use of the Premises for agricultural production. Other recreational activities which alter the premises, such as indoor recreational facilities, golf courses and athletic fields, are prohibited unless expressly authorized by this deed.

- b. Use of the designated public areas of the Premises as set forth herein for a public passive recreational use is permitted consistent with the New Jersey Department of Environmental Protection, Green Acres Program Rules (N.J.A.C. 7:36-1.1 et seq.).
- c. If the Premises is acquired by a governmental entity, nothing herein shall preclude the governmental entity from establishing outdoor active recreational uses on the Premises.

4. Residential Use Provisions

The following residential uses are permitted, subject to the receipt of all necessary approvals:

- a. The construction of a residential building anywhere on the premises in order to replace any permitted single or multi-family residential building that exists on the Premises and that is not a structure unfit for human occupancy pursuant to the International Property Maintenance Code or that if it is a structure unfit for human occupancy it was lived in for at least 90 days during the past two (2) years.
- b. The construction of up to a 50% expansion of any existing single or multi-family residential building on the Premises up to a maximum of 2,000 square feet, provided that no new dwelling unit is created and the addition is used solely for residential purposes.
- c. If at the time of recording of this Deed of Easement the Premises contains no residential unit(s) and is greater than 15 acres, but less than 50 acres in size, the construction of one new single family residential unit is permitted provided that no division of the property by testamentary or intestate provisions without approval of the Joint Land Use Board has occurred. The Seller shall have retained (1) TDR credit for this purpose at the time of conveyance of this Deed of Easement.
- d. If at the time of recording of this Deed of Easement the Premises is 50 acres or more in size excluding the land area occupied by any buildings or structures used for a non-conforming non-residential use, the construction

of new single family residential units is permitted on the Premises provided the total number of single family residential units (including existing units) which may be built on the Premises shall not exceed one (1) unit per fifty (50) acres of gross land area, except as provided in 5b or 5c below. No TDR credits are required for units that do not exceed one (1) unit per fifty (50) acres of gross land area density.

5. Subdivision Provisions

- a. Subdivision of the Premises resulting in parcels of at least fifty (50) acres is permitted without the use of a TDR credit.
- b. Unless a lot for an existing or new single family detached dwelling has been subdivided from the premises in accordance with Section 203-54H of the Township of Woolwich Ordinances, a one-time subdivision of the Premises resulting in a vacant parcel that is at least 15 acres but less than 50 acres in size is permitted with use of a TDR credit for a proposed single family detached dwelling unit on that lot. At the time of the conveyance of this Deed of Easement, the Seller shall have retained (1) TDR credit for this purpose.
- c. Seller may subdivide a lot for an existing or new single family detached dwelling in accordance with Section 203-54H of the Township of Woolwich Ordinances, provided that the remaining vacant lot shall contain at least 15 acres. No residential development of the remaining vacant lot shall occur unless that lot contains at least 50 acres. At the time of the conveyance of this Deed of Easement, the Seller shall have retained one (1) TDR credit for the existing or new single family detached dwelling.

6. Non-Agricultural Use Provisions

- a. To the extent permitted by the zoning ordinance, any single family residential building constructed pursuant to 4. above may also contain any

of the uses permitted in b., c. or d. below; provided that, the overall building size contains no more than 5,000 square feet.

- b. To the extent permitted by the zoning ordinance, existing buildings on the Premises including a 50% expansion of any existing building up to a maximum of 2,000 square feet, may be retained for a winery, brewery, distillery and/or other alcohol production facility on the Premises provided that the predominant crops on the Premises are used in the production of alcohol. Nothing herein shall limit the ability to develop an alcohol production facility authorized pursuant to 2 above.
- c. To the extent permitted by the zoning ordinance, existing buildings on the Premises, including a 50% expansion of any existing building up to a maximum of 2,000 square feet, may be retained for use as a bed and breakfast.
- d. To the extent permitted by the zoning ordinance, existing buildings on the Premises, including a 50% expansion of any existing building up to a maximum of 2,000 square feet, may be retained for use for social events such as weddings and temporary structures may be used for said social events.
- e. To the extent permitted by the zoning ordinance, the Premises may be retained for use as a day camp.
- f. To the extent permitted by the zoning ordinance, the Premises may be retained for use as a botanical garden or arboretum.
- g. To the extent permitted by the zoning ordinance, permissible improvements allowed in conjunction with permitted uses include the installation of needed driveway and/or road access and ancillary unpaved parking areas for a maximum of 75 vehicles, so long as these installations are designed to have a minimum impact on the resource.
 - i. The use of hiking and biking trails for motorized vehicles is prohibited except for necessary access to the Premises.
- h. The uses authorized in 4. or 6a.-g. above only shall be allowed if it is demonstrated that the uses individually or collectively will not diminish

the actual or potential use of the Premises for agricultural production. If more than one of the permitted expansions authorized in 4b. and 6b.-d. above occurs, the total expansion shall not exceed a 50% expansion of the existing building or a maximum of 2,000 square feet.

7. Prohibited uses

- a. Disposal of sludge or any waste material resulting from the treatment of waste water, domestic or otherwise, is expressly prohibited.
- b. No sand, gravel, loam, rock or other minerals shall be deposited on or removed from the premises except those materials required by the agricultural purpose to which the land is used.
- c. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly authorized by the New Jersey State Agriculture Development Committee or the Gloucester County Agricultural Development Board as an agricultural management practice pursuant to the Right to Farm Act and subject to any restrictions imposed by the Township consistent with that Act.
- d. No activity shall be permitted on the premises which would be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, nor shall any activity be permitted which would be detrimental to the continued agricultural use of the Premises.
- e. No historic building or structure (included in the NJ Register of Historic Places) located on the Premises may be demolished by the Seller or any other person without the prior approval of the Township Committee, with a recommendation from the Joint Land Use Board.
- f. The construction of billboards, golf courses, cellular phone towers, solar panels, wind turbines, airstrips, and helicopter pads is expressly prohibited.
 - i. Notwithstanding paragraph f. above, solar panels and wind turbines used to generate electricity for uses on the Premises consistent with this Deed of Easement are permitted.

8. Protections for the Seller

- a. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this instrument or as otherwise provided by law.
- b. Except as otherwise required by the Township of Woolwich Ordinances unless said ordinances are limited pursuant to the Right to Farm Act for agricultural uses, nothing shall impose upon the Seller any duty to maintain the Premises in any particular state, or condition, except as provided for in this instrument.
- c. Nothing in this instrument shall be deemed to restrict the right of the Seller to maintain all roads and trails existing upon the Premises as of the date of this instrument. Seller shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, agricultural buildings, or reservoirs as may be necessary.
- d. The terms of Paragraph 1 above shall not apply to public improvements including but not limited to roadways, drainage facilities and other public infrastructure so long as the public improvements individually or collectively have no more than a di minimis impact on the actual or potential use of the Premises for agricultural production.

9. Non-conforming Uses – Continuation and Representations

- a. All non-agricultural uses, if any, existing on the Premises at the time that this instrument is recorded as set forth below may be continued and any structure may be restored or repaired in the event of a partial destruction thereof, subject to the following:
 - i. No new structures or the expansion of pre-existing structures for non-agricultural uses are permitted;
 - ii. In the event that Seller abandons the pre-existing non-agricultural use, the right of the Seller to continue the use is extinguished.

- b. Seller certifies that, at the time of the recording of this Deed of Easement, the non-agricultural uses indicated on attached Schedule B existed on the Premises. All other non-agricultural uses are prohibited except as expressly provided in this instrument.
- c. At the time of this conveyance, Seller has _____ existing single family residential building(s) on the Premises and _____ residential building(s) used for agricultural labor purposes and _____ building(s) used for agricultural purposes and _____ building(s) used for _____ purposes. In addition to the uses otherwise permitted herein, Seller may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:
 - i. Improvements to agricultural buildings shall be consistent with agricultural uses;
 - ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed by the Seller or the operator of the agricultural operation. Such agricultural labor housing shall not be used as a residence for the Seller, Seller's spouse, siblings, Seller's parents, Seller's lineal descendants, adopted or natural, Seller's spouse's siblings, parents, Seller's landowner's spouse's lineal descendants, adopted or natural.

10. Alienation

Nothing in this Deed of Easement shall be deemed to restrict reasonable alienation of the Premises. The land and its buildings may be sold collectively or individually for continued agricultural or residential use. The minimum lot size for any residential subdivision shall be consistent with the zoning requirements set forth in the Township of Woolwich Ordinances. No subdivision shall create

the right to develop any additional dwelling units than allowed on the Premises prior to the subdivision.

11. Duration

This Deed of Easement shall run with the land and shall be binding upon the Seller and every successor in interest thereto.

12. Right to Enforce

This Deed of Easement shall be enforceable by the Township of Woolwich, any interested party, the State of New Jersey pursuant to N.J.S.A. 40:55D-147 and the State Transfer of Development Rights Bank Board pursuant to N.J.S.A. 4:1C-49 et seq. Prior to entering upon the Property so as to assure compliance with the provisions of this Deed of Easement, said governmental entities shall provide at least 24 hour notice to the property owner and said entry shall be done in a reasonable manner and at reasonable times. The terms of this Deed of Easement may be enforced by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any provision herein contained, to restrain or enjoin such violation or threat of violation or to recover damages or to restore the Premises or any combination of the above, and the failure by any party benefitted by these restrictions to enforce any covenant or restriction contained within this document for any period of time shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same.

13. Enrollment

The recording of this instrument enrolls the Premises in the Township of Woolwich Transfer of Development Rights Program, creating upon enrollment _____ credits which may be sold, assigned, devised, or otherwise transferred under and pursuant to the terms and conditions of the Township of Woolwich Transfer of Development Rights Ordinance.

14. Applicability

The word 'Seller' shall mean the person or persons who execute this Deed of Easement and any and all persons who lawfully succeed to the rights and responsibilities of the Seller including, but not limited to, the Seller's heirs, executors, administrators, personal or legal representatives, successors and assigns.

15. Severability

Should any covenant or restriction herein contained, or any subsection, sentence, clause, phrase or term of this deed of easement be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction, such a declaration shall not affect the validity of the remaining provisions which are hereby declared to be severable and which shall continue to remain in full force and effect.

IN WITNESS WHEREOF, Seller has signed this Deed of Easement as of the date first written above.

Witness: _____ Seller _____

ACKNOWLEDGMENT

STATE OF NEW JERSEY :
 : SS.
COUNTY OF GLOUCESTER :

BE IT REMEMBERED, that on this ____ day of _____, 20__, before me, the subscriber, personally appeared _____, who I am satisfied is the person named in and who executed the within instrument, and thereupon acknowledged that they signed, sealed and delivered the same and their act and deed, for the uses and purposes therein expressed.

(Notary Seal)

CERTIFICATION

I, _____, Joint Land Use Board Solicitor for the Township of Woolwich Joint Land Use Board, do hereby certify that I have reviewed the application, this instrument, and proof of title provided, and based on the accuracy of the information supplied, Seller is legally empowered to execute the instrument to which this Certification is affixed pursuant to and under the provisions of the Township of Woolwich Transfer of Development Rights Ordinance. I understand if any statement contained in this Certification is willfully false, I am subject to punishment.

Date: _____

CERTIFICATION

I, _____, Administrative Officer for the Township of Woolwich, do hereby certify that I have reviewed the application for enrollment, this instrument, and other documents submitted by Seller under the Township of Woolwich Transfer of Development Rights Ordinance, and that upon recording of the instrument within ninety (90) days of the date below, the Premises covered by it will be enrolled in the TDR program creating _____ credits capable of being transferred as provided within the Ordinance cited. Failure to record this instrument within ninety (90) days makes the enrollment null and void.

Date: _____

SCHEDULE A

(legal description of premises)

SCHEDULE B

(list of non-agricultural uses existing on Premises)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____