

Tax Map No(s): 4-30-11.00-31.00
4-30-11.00-32.00

Prepared By: Delaware Agricultural Lands
Preservation Foundation
2320 S. DuPont Highway
Dover, DE 19901

Return To: Parkowski, Guerke & Swayze, P.A.
116 W. Water Street
Dover, DE 19904

AGRICULTURAL LANDS PRESERVATION EASEMENT

STATE OF DELAWARE AGRICULTURAL LANDS PRESERVATION PROGRAM

THIS PRESERVATION EASEMENT DEED, which is hereinafter referred to as "Easement", made, granted, assigned and conveyed this 24th day of February, A.D. 2015, by RALPH S. MILLER, TRUSTEE OF THE RALPH S. MILLER REVOCABLE TRUST DATED OCTOBER 24, 2006, whose address is 16358 Long Branch Road, Greenwood, Delaware 19950 and who is hereinafter referred to as "Grantor", and the DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION, a body politic and corporate constituting a public instrumentality of the State of Delaware, and which is hereinafter referred to as "Grantee" and/or "Foundation" and the UNITED STATES OF AMERICA, hereinafter referred to as the "United States" acting by and through the Department of Agriculture, Natural Resources Conservation Service on behalf of the Commodity Credit Corporation, as its interest appears herein.

WHEREAS, Grantor is fee simple title holder of 71.60 acres of land situated in Nanticoke Hundred, Sussex County, Delaware, being of record in Deed Book 3383, Page 158 at the Office of the Recorder of Deeds, in and for Sussex County, Delaware, hereinafter referred to as the "Parcel" and more particularly described in Exhibit "A" (annexed hereto); and as shown on a plot entitled "Delaware Agricultural Lands Preservation Foundation – Lands of Ralph S. Miller, Trustee" as prepared by John Elliott Surveying, Inc., dated July 14, 2014 and recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 209, Page 90. There are 71.60 acres of prime, unique, and important farmland. There are 64.119 acres of cropland, 5.481 acres of woodland, and 2.00 acres of other land.

WHEREAS, the General Assembly of the State of Delaware has declared that the preservation of the State's farmlands and forest lands is considered essential to maintaining agriculture as a viable industry and as an important contributor to Delaware's economy; and

WHEREAS, the General Assembly of the State of Delaware has recognized that a need exists to create sufficient economic incentives and benefits to encourage agricultural landowners to voluntarily place viable agricultural lands under protective restrictions through the creation of and participation in agricultural preservation districts and sale and/or donation of development rights; and

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WHEREAS, part of the funds used to purchase this Easement were provided by the Federal Farm and Ranch Lands Protection Program ("FRPP") 16 U.S.C. 3838h and 3838i. Under FRPP, the Secretary of the United States Department of Agriculture, acting through the Natural Resources Conservation Service, hereinafter referred to as "NRCS" or generally, the "United States," is authorized to provide funding for the purchase of conservation easements in order to protect farmland with prime, unique, or statewide and locally important soils, land with historic and archaeological resources, or land that supports the policies of a state or local farmland protection program from conversion to non-agricultural uses. The United States' contribution of funds towards this acquisition entitles it to the rights specified under this Easement; and

WHEREAS, the Grantor desires to grant and convey to the Foundation an agricultural lands preservation easement as provided herein:

NOW, THEREFORE, the Grantor, for and in consideration of the sum of ONE HUNDRED TWENTY TWO THOUSAND EIGHTY FOUR DOLLARS AND SEVENTY THREE CENTS (\$122,084.73), the sufficiency of which is hereby acknowledged, and in consideration of the benefits conferred herein hereby grants and conveys with warranty covenants, to the Foundation, its successors and assigns, an Easement, which runs with and binds the Parcel in perpetuity, on and over the Parcel, and covenants and promises that the Parcel will be owned, used and conveyed subject to, and not in violation of, the following restrictions:

A. No rezoning or major subdivision of the Parcel shall be allowed.

B. (1) Activities conducted on the Parcel are limited to agricultural and related uses, which are defined below and subject to other restrictions as set forth in this Easement.

(a) "Agricultural use" means all forms of farming, including agriculture, horticulture, aquaculture, silviculture and activities devoted to the production for sale of food and other products useful to humans which are grown, raised or harvested on lands and waters, including:

(1) Maintenance of existing agricultural structures, and the construction of additional agricultural structures necessary to carry-out permitted agricultural uses on the Parcel; provided however, that all structures are subject to the impervious surface limit set forth below.

(2) Improvement and development of water resources as necessary to serve the agricultural uses on the Parcel consistent with the conservation plan;

(3) Use of motorized vehicles necessary to carry-out the permitted agricultural uses on the Parcel;

(b) The following uses shall be deemed "related uses":

(1) A farm market or roadside stand shall be allowed provided the products offered for sale are grown or produced on property included within the Parcel and such farm market or roadside stand complies with all applicable laws and zoning requirements and;

(a) All buildings, structures and associated canopies shall comply with any applicable building height setback requirements established by the local jurisdiction within its zoning ordinances. All construction shall conform to applicable building codes and building permit requirements as enacted by the local jurisdiction;

(b) Off street customer parking must be provided in accordance with applicable provisions of the zoning ordinance of the local jurisdiction.

(c) A new vehicular entrance to the roadside stand must conform to any applicable requirements of the Delaware Department of Transportation; and

(d) Signage for the roadside stand is permitted so long as it complies with applicable signage provisions and permitting requirements established by the local jurisdiction within its zoning ordinances.

(2) Hayrides, horseback riding, guided tours, barn parties and petting zoos are permitted, provided that said activities are limited to no more than 50 persons on the premises at a time.

(3) Horse stabling and training and caring for horses is permitted.

(4) Hunting, trapping, and fishing is permitted provided said activities are limited to private, non-commercial activities.

(5) Spray irrigation designed to replenish soil nutrients and improve the quality of the soil is permitted provided that the spray effluent is treated pursuant to the best available treatment technology, is disposed of on the Parcel for the production of conventional cash crops, and all storage and treatment of the effluent disposed of on the District Property takes place on property other than District Property.

(6) Easements, licenses and other property interests for utility, telecommunications, and access uses may be permitted provided that:

(i) The property subject to the easement, license or other property interest is limited to only the area necessary to accommodate the utility, telecommunications or access use;

(ii) The area affected by the use is located so as to minimize, to the maximum extent practicable, the impact on farming activities and operations;

(iii) No commercial advertising or commercial activities unrelated to the utility, telecommunications or access use shall be conducted on the area of the utility, telecommunications or access use;

(iv) Any document used to grant an easement, license or other property interest shall limit the activities to utility, telecommunications or access uses and shall contain the prohibitions of commercial advertising or commercial activities unrelated to the permitted use; and

(v) The advanced written approval of the Foundation must be obtained for any easements, licenses and other property interests for utility, telecommunications, and access, and must comply with the requirements of 3 Del. C. Ch.9, the regulations promulgated there under, the Foundations guidelines, conditions set forth in subparagraphs (i) through (iv) immediately above and satisfaction of the following criteria:

A. the approval of any utility, telecommunications or access use shall be kept to a minimum to avoid to the extent practicable adverse impacts on prime and other important soils used in agricultural production, and generally discouraged whenever possible;

B. no transfer of title to the property subject to the easement, license or other property interest to the recipient of the easement, license or other property interest shall be allowed;

C. the utility, telecommunications or access use does not exceed the impervious surface limitations set forth in Section K herein; and

(7) Farm structures in existence at the time of approval of a District or expansion of a District that are no longer used in farming operations may be used for the enclosed storage of property belonging to others.

(8) A restricted landing area utilized for the personal use of the owner is permitted provided that said use does not require any rezoning of the Parcel or conditional use. As used herein, "restricted landing area" means any area of land, water or both which is used for the landing and takeoff of aircraft.

(9) A "bed and breakfast" may be operated in any permitted dwelling located on the Parcel.

(10) A daycare center for the care of no more than 5 children under the age of 16 shall be allowed in any dwelling located on the Parcel.

(11) Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Parcel; provided however that renewable energy sources must be built and maintained in accordance with any local zoning ordinance and applicable State and Federal law and built and maintained within the impervious surface limits herein and with minimal impact on the agricultural use of the Parcel.

(2) The following uses are not "Agricultural and related uses" and are therefore prohibited:

(a) excavation, filling, borrow pits, extraction, processing or removal of sand, gravel, loam, rock or other minerals, unless such activities are currently required by or ancillary to any preparation for, or operation of any activities involving aquaculture, farm ponds, cranberry operations, manure handling facilities, and other activities directly related to agricultural production on the Parcel;

(b) actions which are detrimental to drainage, flood control, water conservation, erosion control or soil conservation;

(c) actions which negatively affect the continued agricultural capacity of the land;

(d) uses that are not directly and functionally related to the farming activities conducted on the Parcel such as industrial or commercial activities (including commercial recreational activities) or the placement or building of any structures on the Parcel not otherwise specifically permitted herein;

(e) the dumping or placing of any waste, garbage or old machinery or vehicle parts on the Parcel not in use; however, organic matter generated on the Parcel may be composted subject to all applicable laws and regulations.

C. The allowability of a general use, conditional use, special use or other use under any zoning law or ordinance shall not have any effect on the restrictions imposed on the Parcel under this Easement.

D. No more than three (3) dwelling houses for residential use are permitted on the Parcel and must be located in the locations designated as Residential Acreage on the Plot map attached hereto at Exhibit "B" as "Residential Area #1" and "Residential Area #2". There is currently one (1) dwelling house located on the Parcel. Consequently, only two (2) additional dwelling houses are permitted on the Parcel. The residential use allowance would normally be three (3) acres. Notwithstanding the residential use allowance that would otherwise be available under Delaware law, the Grantors have elected to limit the residential use to two (2) acres and hereby waive Grantors' right to use more than two (2) acres for residential purposes.

E. This Easement is granted in perpetuity and shall be binding upon the heirs, executors, administrators, successors and assigns of the Grantor.

F. This Easement may be managed, administered and enforced by the Grantee, the State of Delaware, or enforced by the United States, should it exercise its rights under Section O below. The Foundation is the primary steward of this Easement.

G. In granting this Easement, the Grantor also conveys to the Grantee and the United States the ability to enforce the terms of this Easement to ensure compliance with its terms and protection of the agricultural soils and other agricultural and open space values. In the event that Grantee becomes aware of a violation of the terms of this Easement, Grantee shall give notice to the Grantor, at Grantor's last known post office address, of such violation via certified mail, return receipt requested, and request corrective action sufficient to abate such violation and restore the Parcel to its previous condition. Failure by the Grantor to cause discontinuance, abatement or such other corrective action as may be requested by Grantee within thirty (30) days after receipt of such notice shall entitle Grantee to enforce by proceedings at law or in equity the provisions of this Easement including, but not limited to, the right to require the restoration of the Parcel to its condition at the date of this Easement, subject to the reserved rights of the Grantor set forth herein. Grantee, or its successors or assigns, shall not waive or forfeit the right to take action as may be necessary to ensure compliance with the terms and conditions of this Easement by any prior failure to act. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the protected soils and other agricultural values of the Parcel, Grantee may pursue its remedies under this Section without prior notice to the Grantor or without waiting for the period for cure to expire.

H. The Foundation has compiled a baseline report, hereinafter referred to as "Report," documenting the present condition of the Parcel, including the conservation values and state of improvement. The parties hereto agree that Report is an accurate description of the condition of the Parcel on the date this Easement is executed. The Foundation and the United States each maintain a copy of this Report in their official files. The Report includes detailed digital photos of the Parcel, buildings and other salient features combined with a detailed LESA analysis and cartography, including

high resolution aerial photography of the Parcel. The Report may be used by the Grantee in any enforcement action.

I. The provisions of Title 3, Chapter 9 of the Delaware Code Annotated and duly adopted regulations hereunder as such provisions relate to the Parcel shall govern this Easement, to the extent that said provisions do not conflict with federal laws or regulations.

J. (1) As required by section 12381 of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct all agricultural operations on highly erodible land on the Parcel in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect as of the date hereof. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Parcel, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

(2) In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

(3) If the NRCS standards and specifications for highly erodible land are revised after the date of this easement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

(4) If the Parcel contains more than forty (40) contiguous acres or twenty per cent (20%) of the easement area (whichever is greater) of forested land, a written forest management plan prepared by a professional forester that addresses the Grantor's forest management goals for the Parcel shall be in place at all times and any forest management and timber harvesting shall be performed in accordance with the written forest management plan in effect at the time. The plan shall contain, at a minimum, aerial and soil maps of the Parcel, a description and analysis of the forest by management unit, and silvicultural prescriptions for each management unit. The plan shall be made available for inspection by the State Forester's office and the plan shall be revised and updated at a minimum every five years.

K. Impervious surfaces, which would include any permitted structures (with and without flooring) and paved areas on the Parcel, shall not exceed two percent (2%) of the total easement area. Impervious surfaces are permanent, non-seasonal rooftops, flooring, concrete, and asphalt surfaces. Conservation practices listed in the current NRCS's Field Office Technical Guide are exempt from the

impervious cover limitation. Notwithstanding the foregoing, if the total easement area is less than fifty (50) acres, one acre of impervious surface area shall be allowed.

L. The rights afforded Grantee under this Easement may only be assigned by Grantee to a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code and only with assurances that the purposes of this Easement, as described herein, will be maintained in perpetuity by such Assignee. In addition, such assignment must be approved in advance by the United States. If any such Assignee shall be dissolved or shall abandon this Easement or the rights and duties of enforcement herein set forth, the Assignee's interest in this Easement and the rights of enforcement shall revert to the Grantee, and if the Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then the State of Delaware, or its successors or assigns, shall appoint an appropriate successor as Grantee, and any such successor shall be a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code. No assignment may be made by the Grantee of its rights under this Easement unless the Grantee, as a condition of such Assignment, requires the Assignee to carry out the conservation purposes of this Easement, as described herein. Grantee agrees to hold this Easement exclusively for conservation purposes as defined in Section 170(h)(4)(A) of the Internal Revenue Code. Any such Grantee shall hold title to this Easement.

M. This Easement shall be deemed a covenant which runs with and binds the Parcel permanently as set forth in 3 Del. C. §909 (c) but subject to waiver of the provisions of 3 Del.C. § 917, the terms and conditions of which shall be subject to specific performance and other action allowed under 3 Del. C. § 920, and shall be subject to the exercise of powers of eminent domain or condemnation as provided under 3 Del. C. § 922, provided however, that any such exercise of the powers of eminent domain or condemnation shall not affect the ability of the United States to exercise the rights set forth in Section O herein. Prior to the exercise of the powers of eminent domain or condemnation advance written notice shall be provided to the United States. This Easement shall be binding upon the heirs, executors, administrators, successors and assigns of the Grantor.

N. (1) Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee or the United States to exercise physical or management control over the day-to-day operations of the Parcel, or any of Grantor's activities on the Parcel, or otherwise to become an operator with respect to the Parcel within the meaning of The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA") or any corresponding state and local statute or ordinance.

(2) Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Parcel. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

(3) Moreover, Grantor hereby promises to hold harmless and indemnify the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at,

beneath or from the Parcel, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Parcel. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Parcel or any restoration activities carried out by Grantee at the Parcel; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Parcel by Grantee.

(4) "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

(5) "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

(6) If at any time after the effective date of this Easement there occurs a release in, on, or about the Parcel of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps that may be required under federal, state, or local law necessary to assure its containment and remediation, including any cleanup.

O. Under this Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Foundation fails to enforce any of the terms of this Easement, as determined in the sole discretion of the Secretary.

P. Title Warranty. Grantor hereby warrants and represents that the Grantor is seized of the Parcel in fee simple and has good right to grant and convey this Easement, that the Parcel is free and clear of any and all encumbrances except those of record that have been approved by Grantee and the United States, and that Grantee and its successors and assigns shall enjoy all the benefits derived from and arising out of this Easement. Any present or future mortgage on the Parcel has been or will be subordinated to this Easement.

Q. General Indemnification. Grantor shall indemnify and hold harmless Grantee and the United States, together with their respective employees, agents, and assigns, for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee and/or the United States may be subject or incur relating to the Parcel, which may arise from, but is not limited to, Grantor's negligent acts or

omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

R. Real Estate Taxes. The Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Parcel and that Grantee and the United States shall have no duty or responsibility to manage or maintain the Parcel.

S. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Parcel, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Grantee and the United States' interests in the Parcel free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor.

T. Re-recording. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement; for such purpose, the Grantor appoints Grantee as Grantor's attorney-in-fact to execute, acknowledge and deliver any necessary instrument on Grantor's behalf. Without limiting the foregoing, the Grantor agrees to execute any such instruments upon request.

U. Definitions. The terms "Grantor" and "Grantee" as used herein shall be deemed to include, respectively, the Grantor, Grantor's heirs, successors and assigns, and Grantee, its successors and assigns.

V. Notices. Any notices required under this Easement shall be sent by registered or certified mail, return receipt requested, to the following addresses or such addresses as may be hereafter specified in writing:

GRANTOR

Ralph S. Miller, Trustee
16358 Long Branch Rd.
Greenwood, DE 19950

GRANTEE

Delaware Agricultural Lands
Preservation Foundation
2320 S. Dupont Highway
Dover, DE 19901

UNITED STATES

Natural Resources Conservation Service
1221 College Park Drive, Suite 100
Dover, DE 19904

W. Severability. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

X. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purpose of 3 Delaware Code Chapter 9. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

