

CONSERVATION EASEMENT

THIS GRANT OF A CONSERVATION EASEMENT is made and entered this ____ day of _____, 2012, by and between [insert name of individual], hereinafter referred to as the "GRANTOR" and the [insert ENTITY'S NAME], an agency of the [insert TOWN or STATE] and its successor or assigns, designated as a governmental unit under Section 170b1A(v) of the Internal Revenue Code of 1986, as amended, hereinafter collectively referred as the "GRANTEE", and the UNITED STATES OF AMERICA (United States), acting by and through the United States Department of Agriculture ("USDA"), Natural Resource Conservation Service ("NRCS"), acting on behalf of the Commodity Credit Corporation, as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Grantors and Grantees are hereinafter collectively referred to as the "Parties".

Exhibits to this Conservation Easement include the following:

- Exhibit A [insert appropriate information]
- Exhibit B [insert appropriate information]

RECITALS:

- A. PROTECTED PROPERTY. GRANTOR is the owner in fee simple of approximately [insert acreage amount] acres of land located in [insert town], [insert county] County, Rhode Island and described as [insert plat, lot, and other information regarding the property] all of which land is hereinafter to as the "Property." Development Rights on a portion of said Property and delineated on said plan shall be referred to as Premises **Exhibit A**. The Conservation Easement Area set forth in the aforesaid Conservation Easement is hereinafter referred to as "Premises," and it is also described in **Exhibit A**" attached hereto and made a part hereof; and
- B. CONSERVATION VALUES. The Rhode Island General Assembly has determined that land suitable for food production has become extremely scarce in this State, that it is an increasingly valuable resource, and that it is in the best interest of the citizens of the State of

Rhode Island that the remaining such land, which is most in danger of being lost, be maintained for farming uses; and

WHEREAS, the Premises have a number of water resource values due to water areas, streams, ponds and other wetlands on the Premises; and [if applicable]

WHEREAS, the Premises afford beautiful scenic vistas to numerous passersby on [insert area description]

WHEREAS: the GRANTEE has determined that the Premises is valuable for crop production and is a valuable resource as determined by application of criteria set out in the Farmland Preservation Act (Title 42, chapter 82 of the Rhode Island General Laws); and

WHEREAS, the Premises consists of primarily open space, agricultural land and contains agricultural soils that have been classified by USDA NRCS as prime and of statewide importance for agricultural production. The open space and agricultural soils of the Premises are referred to herein as the Conservation Values; and

WHEREAS, the USDA, NRCS seeks to protect agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land through the purchase of conservation easements and development rights under the Farm and Ranch Lands Protection Program (16 USC 3838h and 3838i). The Farm and Ranch Lands Protection Program has provided some of the funds for this acquisition, entitling the United States to rights as a GRANTEE as set forth herein; and

WHEREAS, the agricultural soils, wooded areas, coastal features and various habitat types and other natural characteristics of the Premises, which also support a wide diversity of species as well as its state of improvement, are described in a Baseline Inventory Report ("Report") to be prepared by the GRANTEE with the cooperation of GRANTOR. This Report shall be maintained in the offices of GRANTEE. This Report shall describe the condition of the Premises, including the natural characteristics and any man-made structures, as of the Date of the Report. The Report may be used by GRANTEE to insure that any future changes in the use of the Premises are consistent with the terms of this Deed to Development Rights (also referred to herein as "the Deed"). However, this Report is not intended to preclude the use of other evidence to establish the condition of Premises at the time this Deed is executed if there is a controversy over the Premises' use; and

WHEREAS, the GRANTOR is willing to devote the Premises to agricultural production

and the preservation of conservation values and to restrict the use of the Premises according to terms and conditions hereinafter set forth; and

WHEREAS, the grant and conveyance of the development rights by the GRANTOR to the GRANTEE will preserve the Premises for crop production, and directly related uses, and further preserve prime and important soils, natural/ecological water resources, open space and scenic values (the "Conservation Values"); and

WHEREAS, the Rhode Island General Assembly has provided for the use of "Conservation Restrictions" which, in addition to other Conservation Values, shall preserve land in perpetuity farming and agricultural uses, among others (Title 34, Chapter 39 of the Rhode Island General Laws as amended); and

WHEREAS, Grantee is an organization which is qualified to receive funds under the Farm and Ranch Lands Protection Program ("FRPP"), 16 U.S.C. 3838h and 3838i, which is administered by the Natural Resources Conservation Service ("NRCS"), an agency under the United States Department of Agriculture ("USDA," also generally referred to herein as the "United States"), as part of the cost of acquiring this Deed, in accordance with the cooperative agreement between the United States of America, Commodity Credit Corporation and Grantee, Agreement [insert agreement number], Legacy Agreement No. [insert agreement number].

WHEREAS, the parties hereto wish to avail themselves of the provisions of said law governing "conservation restrictions" to preserve and protect the Conservation Values of said Premises in perpetuity.

NOW THEREFORE, for and in consideration of [insert dollar amount] Dollars (\$1,234,567), the receipt and sufficiency of which GRANTOR hereby acknowledges, GRANTOR does hereby forever grant, transfer, assign and convey in perpetuity to the GRANTEE and the United States with warranty covenants the development rights to the Premises, of the nature and character described in **Exhibit "B", "Covenant Regarding Restriction of Property to Agricultural Uses and Reservation of Rights"**, which is attached hereto and made a part hereof, and covenants that the restrictions and the conditions set forth in **Exhibit "B"** shall bind GRANTOR and its heirs, devisees, legal representatives, successors and assigns, and that said restrictions and conditions shall be perpetual and shall run with the land, and that the Premises shall not be converted to non-agricultural uses except as specifically permitted herein.

The parties hereto agree that the same rights that are conveyed to GRANTEE are also

conveyed to the United States. However, the United States will only exercise those rights as set forth below. Until such time, as the United States exercises its rights, the [insert trust/town/entity name] will be the primary steward of this Deed and responsible for its enforcement. In the event that the United States exercises its rights, the term “GRANTEE” herein shall be construed to mean the United States, except when context specifically indicates otherwise.

1. The purpose of this Deed in Development Rights is to protect the Conservation Values of the Premises by conveying all the development rights, except for those specifically reserved herein to GRANTOR and set forth in Exhibit “B” hereafter to GRANTEE and placing Conservation Restrictions on the Premises that permit only agricultural and related uses and the preservation of other Conservation Values by limiting nonagricultural uses of the land as provided in the Baseline Documentation that are consistent with the preservation of the Conservation Values.

2. PROHIBITED USES/RESTRICTIONS. Any activity on or use of the Protected Property inconsistent with the purpose of this Easement is prohibited. Without limiting the applicability of the foregoing, the following activities and uses are expressly prohibited except as provided in paragraph 3 below:

2.1. Agricultural Activity. The Protected Property shall not be converted to non-agricultural use. The recreation, open space, natural area preservation and/or restoration uses authorized under the terms of this Easement shall not be considered as conversion to non-agricultural use.

As a condition of receiving funding from the Farm and Ranch Lands Protection Program, and as required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, Grantor’s heirs, successors or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a conservation plan for highly erodible lands (HEL) in consultation with NRCS and the Grantee 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 on the date of this Conservation Easement. 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 and the Grantee shall each have the right to enter upon the

Protected Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

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, NRCS will inform Grantee of the Grantor's noncompliance. 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.

If the NRCS standards and specifications for HEL are revised after the date of this Grant 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.

2.2. Non-Agricultural Commercial Activity. There shall be no industrial, commercial, or for-profit recreational activity undertaken or allowed on the Protected Property. No right of passage shall be granted or retained across or upon the Protected Property if that right of passage is used in conjunction with such prohibited activities.

2.3. Structures. There shall be no construction or placing of any house, garage, barn or other building or improvement, tennis or other recreational court, golf course, landing strip, mobile home, swimming pool, fence or sign (other than those permitted herein), asphalt, concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, wind turbine, automatic yard light (except motion detection lights) or related structures, or any other temporary or permanent structure or facility on the Protected Property except as provided for in subparagraphs (a) through (e) below or reserved in paragraph. Before undertaking any placement or construction that requires advance permission, the Grantor shall

notify Grantee and obtain written permission. All construction or reconstruction is subject to all applicable zoning regulations and must be consistent with permits required by and issued by the City/Town of [insert City/Town name] under its laws and ordinances for such construction activities.

(a) *Structures & Improvements* – Structures, improvements, paved roads and other impervious surfaces located on the Protected Property, including those existing on the date of this Easement, as indicated in the Baseline Documentation Report, shall not exceed 2 percent of the total area of the Property. Impervious surface is defined as any material which covers land and inhibits the percolation of water directly into the soil, including, but not limited to, buildings, roofing, the area covered by permanent or nonpermanent structures, macadam and pavement, concrete, paved and stone driveways, roads, and parking areas, including proposed structures that are either permanent or temporary.

Existing structures, including agricultural structures and improvements, may be repaired, reasonably enlarged, and replaced at their current locations within the "Farmstead Area," as shown on Exhibit A, without further permission from the Grantee. New buildings, including barns, sheds, and other structures and improvements to be used primarily for agricultural purposes (including the processing or sale of farm products predominantly grown or raised on the Property) may be built on the Property without any further permission of Grantee provided they are located in the "Farmstead Area."

Any new agricultural buildings, structures or improvements proposed for locations outside the "Farmstead Area", except for fences and small agricultural structures permitted under paragraph 3 below, may be built only with the advance written permission of the Grantee. The Grantee shall give such permission within a reasonable time if it determines that the proposed building, structure, or improvement would not diminish or impair the Conservation Values of the Protected Property, is not reasonably locatable within the existing Farmstead Envelope, and is not otherwise be inconsistent with this Easement.

(b) *Farm Support Housing* – No more than one (1) single - or multi-family – dwelling

to house farm tenants, employees or others engaged in agricultural production on the Protected Property may be built or placed on the Protected Property without any further permission of the Grantee, provided the dwelling is less than 1,000 square feet in floor size and it is located within that area identified and marked as the “Farmstead Area” identified, if applicable, on **Exhibit A**. At the time that construction of such structure is to commence, Grantee shall be notified so that its records can be updated.

(c) *Single-Family Residential Dwellings* – One residential dwelling exists on the Property within the Farmstead Area, and is depicted as “Existing Residence” on **Exhibit A**. All appurtenant structures (garage, sheds) shall be contained within the “Farmstead Area.” No other residential dwelling may be built on the Protected Property.

(d) *Recreational Improvements*. No recreational improvements are permitted.

(e) *Utility Services and Septic Systems* – Installation, maintenance, repair, replacement, removal, and relocation of electric, gas, and water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or under the Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements on the Protected Property, which also would service the Existing Residence area, are permitted herein, and the right to grant easements over and under the Property for such limited purposes, is permitted, provided that the impact of such installation and maintenance on the Conservation Values is limited to the greatest extent possible. Grantors shall not permit or grant easements for utility transmission or distribution facilities or systems without the written consent of the Grantee and the United States. Maintenance, repair or improvement of a septic system(s) or other underground sanitary system that exists on the Protected Property at the time of this Easement, or the construction of a septic or other underground sanitary system, for the benefit of any of the improvements permitted herein, is permitted. All other utilities are prohibited on the Protected Property including, but not limited to, cellular communication towers or structures.

2.4. Subdivision. The Protected Property may not be divided, partitioned, subdivided or conveyed except in its current configuration.

2.5. Mining. There shall be no mining, drilling, exploring for or removal of minerals from, on or under? the Protected Property.

2.6. Topography. There shall be no ditching, trenching, draining, diking, filling, excavating, removal of topsoil, sand, gravel, rock or other materials (including the removal of substratum from streambeds), or any change in the topography of the land in any manner except in conjunction with activities otherwise specifically authorized herein and in accordance with any Conservation Plan and applicable governmental regulations.

2.7. Water. There shall be no manipulation or alteration of creeks, streams, surface or subsurface springs or other bodies of water or the shorelines thereof, except for those manipulations or alterations designed to benefit the agricultural operation as set forth in paragraph 3 below, and consistent with the Conservation Plan, if applicable.

2.8. Dumping. There shall be no storage, dumping or accumulation of trash, non-compostable garbage, Hazardous Materials or unsightly or offensive material on the Protected Property, except that certain hazardous or toxic substances and agricultural by-products may be stored on the Protected Property, as needed, in association with agricultural uses otherwise permitted in this Easement, so long as such storage is in accordance with all applicable laws, regulations, and labeling requirements.

2.9. Roads and Impervious Surfaces. There shall be no building of new roads or other rights of ways except for unpaved paths and trails consistent with the preservation of the Protected Property. Existing unpaved roads may be maintained but shall not be widened or improved, except as permitted under paragraph 3 below.

2.10. Vehicles. There shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles (ATVs) or other types of motorized recreational vehicles on the Protected Property, except as necessary to carry-out activities otherwise allowed by this Easement. Cars, trucks, and other farm and ranch vehicles shall not be considered as recreational

vehicles when used for the agricultural purposes allowed by this Easement. All permitted vehicle use shall be conducted in a manner that minimizes damage to the Conservation Values of the Protected Property.

2.11. Plant Removal and Introduction. Except as permitted under paragraph 3.10 below, there shall be no excavation and/or removal of native plants on or from the Protected Property except for those designated as noxious weeds or considered to be an invasive woody plant species, or when, based on consultation with and written permission from Grantee, it is agreed that excavation and/or removal of other types of native plants would enhance the Conservation Values of the Protected Property. Grazing and uprooting of native plants by livestock or removal of native species by other agricultural range practices that do not significantly compromise the Conservation Values of the Protected Property shall not be considered excavation or removal. The planting or overseeding of trees, grasses or other plant species is prohibited on the Protected Property without the prior written approval of the Grantee.

2.12. Density. Neither the Protected Property nor any portion of it shall be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. The parties have extinguished the development rights. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.

3. **GRANTOR'S RESERVED RIGHTS.** The Grantor reserves for himself/herself, Grantor's heirs, successors and assigns, all rights as owners of the Protected Property to use the Protected Property for all purposes that are not expressly prohibited herein and are not inconsistent with this Easement. Without limiting the applicability of the foregoing, the following rights are expressly reserved:

3.1. Conveyance. Grantor may sell, give, mortgage, lease or otherwise convey the Protected Property, provided that such conveyance is subject to this Easement and written notice

is provided to the Grantee in accordance with paragraph 6.6 below.

3.2. Agricultural Operations. The Protected Property may be used for agricultural production, including cultivation of row crops, hay, pasture, and range; raising of poultry and livestock, breeding or boarding of animals, horticulture, apiaries, viniculture and forestry.

3.3. Fences and Other Similar Structures. Grantor may, but shall not be obligated to, repair, replace, maintain, improve or remove any fence or corral located on the Protected Property as of the date of this Easement. The Grantor may construct, repair, replace, maintain, improve or remove additional fencing as the Grantor deems necessary to secure the Protected Property, and as required for permitted grazing of livestock on the Protected Property. Upon the prior written consent of the Grantee, which consent may be given or withheld in the Grantee's sole discretion, Grantor may also construct, repair, replace, maintain, improve or remove small structures and corrals necessary for the agricultural and ranching uses of the Protected Property as permitted herein, such as for the watering, feeding, handling and temporary shelter of livestock.

3.4. Water for Agricultural Purposes. To the extent required for agricultural purposes, including grazing of livestock and crop irrigation on the Protected Property, Grantor may drill water wells, make irrigation improvements, or make improvements to existing stock ponds. New impoundments or expansions of existing impoundments are permitted only with the written permission of the Grantee. Such alterations shall be made in a manner that does not adversely affect water quality or quantity, and minimizes negative impacts to soils. Water-pumping windmills, solar-power water pumps or other non-intrusive water pumping systems may be used to provide ground water to livestock and irrigation for crops.

3.5. Roads. In order to prevent erosion and soil loss, Grantor may relocate existing unimproved pasture roads/trails on the Protected Property, provided their total number and cumulative length does not increase and the disturbance to soils is minimized. Existing pasture roads/trails are identified in the Easement Documentation Report (defined in Section 6.2 below). Abandoned roads shall be returned to native vegetation cover, either by letting natural succession

occur or by replanting with appropriate, native species (based on soil type) using local ecotypes.

3.6. Native Species. Grantor may undertake to restore and/or enhance the native plant and animal communities on the Protected Property to the extent consistent with the other terms of this Easement.

3.7. Hunting and fishing. Grantor, Grantor's invitees, licensees, and lessees may hunt and fish for native or naturalized species on the Protected Property in compliance with all state and federal laws and regulations.

3.8. Signs. Grantor may place on the Protected Property interpretive signs, such as signs identifying that the Protected Property is protected by this Easement, or signs identifying prairie habitat improvements, as well as "no hunting," "no trespassing" or similar signs.

3.9. Preservation. Grantor may, but shall not be obligated to, undertake activities necessary to maintain or enhance the Conservation Values of the Protected Property, as identified in paragraph B of this Conservation Easement and in the Easement Documentation Report (defined in Section 6.2 below). Any restoration or enhancement allowed pursuant to this provision must be consistent with the Conservation Programs Manual (CPM) Part 519.64K that is in effect at the time this Conservation Easement is granted.

3.10 Timber Resources. Grantor may selectively harvest timber resources from the Protected Property for personal or commercial use. Such selective harvest shall be conducted in a manner consistent with the purposes of this Conservation Easement that minimizes the impact on the Conservation Values of the Protected Property, and in accordance with all other terms and conditions of this Conservation Easement.

Under this Deed to Development Rights, the same rights are granted to the United States that are granted to the GRANTOR. However, the Secretary of the USDA (the Secretary), on behalf of the United States, will only exercise these rights under the following circumstances: In the event that the GRANTEE fails to enforce any of the terms of this Deed to Development Rights, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or

assigns will exercise the United States rights to enforce the terms of this Deed to Development Rights through any and all authorities available under Federal or State law. In the event that the GRANTEE attempts to terminate, transfer or otherwise divest itself of any rights, title, or interests in this Deed of Development Rights without the prior consent of the Secretary and, if applicable, payment of consideration to the United States, then, at the sole option of the Secretary, all right, title, and interest in this Conservation Easement shall become vested solely in the United States of America.

4. RIGHT OF ENFORCEMENT OF THE UNITED STATES OF AMERICA.

Under this Conservation 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, will exercise this right of enforcement under any authority under the State or Federal law if the GRANTEE fails to enforce any of the terms of this Conservation Easement as determined in the sole discretion of the Secretary.

5. RIGHTS AND REMEDIES OF GRANTEE AND THE UNITED STATES. In order to accomplish the conservation purposes of this Easement, the GRANTEE shall have the following rights and remedies:

5.1 Remedies. In the event that GRANTEE becomes aware of a violation of the terms of this Conservation Easement, GRANTEE shall give notice to the GRANTOR, at the 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 Premises to its previous condition. Failure by the GRANTOR to cause discontinuance, abatement or such other 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 Premises 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 Conservation Values of the Premises, GRANTEE may pursue its remedies under this Section 5.1 without prior notice to the GRANTOR or without waiting for the period for cure

to expire.

Nothing herein shall be construed to entitle GRANTEE to institute any enforcement proceeding against the GRANTOR for any changes to the Premises due to causes beyond the GRANTOR'S control, such as changes caused by fire, flood, storm, infestations, natural deterioration, the acts of third parties legally authorized to act by recorded document or other legally established rights or the unauthorized wrongful acts of third persons; provided, however that the Grantor shall notify GRANTEE of any occurrence which would adversely affect or interfere with the conservation purpose of the Easement, whether caused by the acts or omissions of the GRANTOR or third parties.

GRANTEE shall be entitled to seek expedited injunctive relief to enforce its rights with respect to the Premises, and the GRANTOR waives any bond requirement otherwise applicable to any petition for such relief. GRANTEE shall have the right to report to regulatory authorities any environmental conditions or any potential or actual violations of environmental laws, including noxious weed laws, with respect to the Premises.

In the event either party becomes involved in legal proceedings against the other to enforce such party's respective rights or interests under this Easement, the prevailing party shall be entitled to receive from the non-prevailing party reasonable attorney's fees incurred in connection with any such proceedings. However, the immediately preceding sentence shall not apply to the United States if the United States exercises its rights under this Easement.

5.2. Right of Entry. Grantee shall have the right to enter the Protected Property, in a reasonable manner, with advance notice to the Grantor and at reasonable times, for the purposes of:

- a. Inspecting the Protected Property to determine if the Grantor or Grantor's heirs, successors or assigns, are complying with the provisions of this Easement;
- b. Obtaining evidence for the purpose of seeking judicial enforcement of this Easement;
- c. With Grantor's approval, making scientific and educational observations and studies and taking samples in such a manner as will not disturb the quiet enjoyment of the Protected Property by the Grantor. Grantor shall be allowed to participate in all such observations and studies; Posting signs for the purpose of promoting provisions of this Easement, with Grantor's approval as to the size and location of signs;

- d. Removing or controlling invasive plants or animals, at no additional cost to Grantor, and at Grantee's option; such activities by Grantee shall not relieve the Grantor of the responsibility of removing and controlling invasive species in accordance with appropriate federal, state and county laws and regulations;

The United States, acting by and through the Natural Resources Conservation Service, shall have the right to enter the Protected Property after notifying Grantor for the purposes of ensuring that the Conservation Plan required pursuant to paragraph 2.1 is being implemented appropriately, and as needed to exercise its rights pursuant to paragraphs 4 and 5 of this Easement.

All notices to the Grantor under this Section 5.2 may be made either in writing or verbally, at the discretion of the party providing the notice.

5.3. Limitation of Grantee and United States Rights. Nothing contained herein shall give rise, in the absence of a judicial decree, to any right or ability of Grantee or the United States to become the owner, arranger or operator of the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act by exercising physical control over the day-to-day operations of the Grantor, or becoming involved in management decisions of the Grantor regarding the generation, handling or disposal of hazardous substances.

5.4. Monitoring. Upon written or verbal notice to the Grantor, Grantee shall have the right, but not the obligation, to monitor the condition of the rare plant and animal populations, plant communities, and natural habitats on the Protected Property. A written summary of findings shall be provided to the Grantor.

5.5. Discretionary Consent. For any activities requiring the Grantee's consent under paragraph 2 or 3 above may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the activities listed in paragraph 2 are deemed desirable by Grantor and Grantee, Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and requests

for permission for activities requiring Grantee's consent under paragraph 2 or 3, shall be in writing and shall describe the proposed activity in sufficient detail to allow Grantee to judge the consistency of the proposed activity with the purpose of this Easement. Grantee shall make reasonable efforts to respond to such written request within 60 days of receipt by Grantee. Grantee may give its permission only if it determines, in its sole discretion, that such activities (a) do not violate the purpose of this Easement and (b) either enhance or do not significantly impair any Conservation Values of the Protected Property. Notwithstanding the foregoing, the Grantor and Grantee have no right or power to agree to any activities that would result in the termination of this Easement or to allow residential, commercial or industrial activities not provided for above. Grantee shall notify NRCS prior to granting consent for activities pursuant to this paragraph.

6. GRANTEE has the right to enforce the terms and conditions of this Deed. Upon reasonable advance notice to the GRANTOR, GRANTEE or GRANTEE's agents may enter the Premises to inspect for violations. If GRANTEE finds a violation, GRANTEE may at its discretion take appropriate legal action in law or equity. Upon discovery of a violation, GRANTEE shall notify GRANTOR in writing of the violation. Except when an ongoing or imminent violation could as determined by GRANTEE, seriously impair the Conservation Values of the Premises, GRANTEE shall give GRANTOR written notice of the violation and thirty (30) days to correct it before filing any legal action. If GRANTOR fails to cure the violation within thirty (30) days after receipt of a notice of violation, GRANTEE may bring an action in court to enforce the terms of this Deed, to enjoin the violation; and to require restoration of the Premises to the condition that existed prior to any such injury.

Rights of the United States: "Right of Enforcement. Under this Conservation 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), on behalf of the United States, will exercise these rights under the following circumstances: In the event that the Grantee fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States' rights to enforce the terms of this Conservation Easement through any and all authorities available under Federal or State law,"

7. GRANTOR covenants that they are seized of the Premises in fee simple, have

good right to grant and convey the aforesaid development rights, that the Premises is free and clear of any and all encumbrances and that all existing liens, attachments, mortgages or similar encumbrances on the Premises have been discharged.

8. If GRANTEE at some future time acquires the underlying fee title in the Premises, the interest conveyed by this Deed will not merge with fee title but will continue to exist and be managed as a separate estate.

9. GRANTOR shall indemnify, defend, and hold harmless GRANTEE and the United States from any 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 or the United States may be subject or incur relating to the Premises, which may arise from, but is not limited to, GRANTOR's negligent acts and omissions or GRANTOR's breach of any representation, warranty, covenant, agreements contained in Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

10. GRANTOR warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any government authority of any violation or alleged violation of, noncompliance or alleged noncompliance with or any liability under any Environmental Law relating to the operation or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials; as such substances and waste are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to hold harmless and indemnify the United States and the Grantee 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 Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorization provided by the Grantee or the United States to the Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that the Grantee is responsible for any Hazardous Materials contributed after this date to the

Protected Property by the Grantee.

The terms “Environmental Law” and Environmental Laws” mean 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 communications, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, and building and land use as may now or at any time hereafter be in effect.

The term “Hazardous Materials” means any petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals , hazardous waste, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.”

11. If the Deed to Development Rights is extinguished/terminated or condemned, in whole or in part, under circumstances requiring payment of monies to GRANTOR, then the United States is entitled to their proportional share each of net sale proceeds or condemnation award unless and except the value attributable to improvements made to the Premises following the effective date of this grant, which values are reserved to GRANTOR, representing an amount equal to the ratio of the then appraised value of this easement to the then fair market value of the Premises as these values are determined at the time of the termination, extinguishment or condemnation of this Deed. All proceeds received by GRANTEE shall be used by GRANTEE in a manner consistent with the conservation purposes of this grant.

12. GRANTOR further covenants that they and their heirs and assigns, agree to pay all real estate taxes and assessments levied by competent authorities on the Premises.

13. This Deed shall be interpreted under the laws of the State of Rhode Island and the United States. Any ambiguities in this Deed and questions as to the validity of any of its specific provisions shall be resolved in favor of GRANTEE so as to preserve the conservation values of the Premises and to give maximum effect to the purpose of this Deed.

14. If any provision of this Deed is found to be invalid, the remainder of its provisions shall remain in force.

15. The covenants, terms, conditions and restrictions of this Easement shall be binding upon and inure to benefit at the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Premises. The terms "GRANTOR" and "GRANTEE" whenever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named GRANTOR and her personal representatives, heirs, successors, and assigns, and the above-named GRANTEE and its successors and assigns.

16. The GRANTEE shall have the right to enter the Premises at all reasonable times and subject to reasonable prior notice and, if necessary, to cross other lands retained by the GRANTOR, for the purposes of: (a) inspecting the Premises to determine if the GRANTOR is complying with the covenants and purposes of this Deed to Development Rights; (b) enforcing the terms of this Deed; (c) in accordance with paragraph 4, taking any and all actions with respect to the Premises as maybe necessary or appropriate to remedy or abate violations hereof. Said access shall be on the R.O.W. and the access easement as set forth in **Exhibit A**.

17. Except as specifically set forth herein, nothing contained in this Deed to Development Rights shall give or grant any right to enter upon or use the Premises, or any portion thereof, where no such right existed immediately prior to the execution of this Deed.

18. GRANTOR agrees that the terms, conditions, restrictions and purposes of this Conservation Easement will either be incorporated by reference or inserted by the GRANTOR in any subsequent deed or other legal instrument by which the GRANTOR divests itself of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest.

19. This Conservation Easement is not transferable or assignable by the GRANTEE unless USDA NRCS approves the transfer or assignment in advance. In the event the GRANTEE transfers or assigns its interest in this Conservation Easement, the organization or entity receiving this interest must be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code, as amended, that is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, as amended. The GRANTEE also agrees that the transferee or assignee will be required to carry out in perpetuity the conservation purposes which this Conservation Easement was originally intended to advance.

20. Any notices required in this Deed to Development Rights shall be sent by

registered or certified mail to the following address or such address as may be hereafter specified by notice in writing: GRANTOR: [insert name and address of GRANTOR] and GRANTEES: [insert the name and address of GRANTEE] and USDA NRCS, 60 Quaker Lane, Suite 46, Warwick, Rhode Island 02886.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:

GRANTOR

[INSERT NAME OF GRANTOR]

[INSERT NAME OF GRANTEE]

By: _____

STATE OF _____

COUNTY OF _____

In _____, in said County and State, on the _____ day of _____, 2012, before me personally appeared _____, to me known and known by me to be the party executing the foregoing instrument, and ___ acknowledge said instrument by ____ executed to be ___ free act and deed.

Notary Public

My Commission Expires: _____

ACCEPTANCE FOR PROPERTY INTEREST BY THE NATURAL RESOURCES
CONSERVATION SERVICE

The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing conservation easement Deed to Development Rights and Conservation Easement, including all the exhibits and the rights conveyed therein; on behalf of the United States of America.

By: _____

R. Phoukham Vongkhamdy
State Conservationist, USDA-NRCS
60 Quaker Lane, Suite 46
Warwick, RI 02886

STATE OF Rhode Island
COUNTY OF Kent

In Warwick, in said County and State, on the _____ day of _____, 2012,
before me personally appeared _____, to me known and
known by me to be the party executing the foregoing instrument, and __ acknowledge said
instrument by ____ executed to be __ free act and deed.

Notary Public
My Commission Expires: _____

STATE OF _____
COUNTY OF _____

In _____, in said County and State, on the _____ day of _____,
2012, before me personally appeared _____, to me known and known by
me to be the party executing the foregoing instrument, and __ acknowledge said instrument by
____ executed to be __ free act and deed.

Notary Public

My Commission Expires: _____

EXHIBIT “A”

[insert Exhibit A]

EXHIBIT “B”

[insert Exhibit B]