

1/26/00

GRANT OF AGRICULTURAL, SCENIC, AND CONSERVATION EASEMENT

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, residing at \_\_\_\_\_ ("GRANTOR"), and the Town of East Hampton, a municipal corporation having its principal offices at 159 Pantigo Road, East Hampton, New York 11937 ("GRANTEE").

WHEREAS, GRANTOR owns certain lands situate at \_\_\_\_\_, Town of East Hampton, County of Suffolk, State of New York, described as follows:

[INSERT METES & BOUNDS DESCRIPTION OF THE AREA OF THE PROPERTY TO BE COVERED BY THE AGRICULTURAL EASEMENT. IF PART OF A SUBDIVISION, DESCRIPTION MAY BE MADE BY REFERENCE TO THE FILED SUBDIVISION MAP.

AND WHEREAS, the said lands constitute an area of natural scenic beauty which is desirable and productive for farming and agricultural purposes, and whose openness and existing state of use enhances the present and potential value of abutting and surrounding properties, enhances the conservation of natural, agricultural, and scenic resources, and yields a significant public benefit; and

WHEREAS, Section 247 of the New York General Municipal Law authorizes designated governmental bodies, including Towns, to acquire fee title or lesser interests in land, including development rights, negative use easements, restrictive and affirmative covenants, and other contractual rights which may be necessary or desirable for the

preservation and retention of open spaces and natural or scenic resources, including agricultural lands; and

WHEREAS, it is GRANTEE's policy to conserve, preserve, and protect the Town's natural resources and the natural and man-made attributes of its land, including farmland, as fundamental to maintaining and improving the agricultural economy, the attractiveness of the community, balanced growth, and the quality of life in the Town generally; and

WHEREAS, in furtherance of GRANTEE's policies and in accordance with Section 247 of the General Municipal Law, GRANTOR wishes to convey and GRANTEE wishes to accept this agricultural, scenic, and conservation easement;

NOW THEREFORE, in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration to GRANTOR, the receipt of which is hereby acknowledged, this agreement

W I T N E S S E T H

1. GRANTOR does hereby grant, transfer, bargain, sell, and convey unto GRANTEE, in perpetuity, an agricultural, scenic, and conservation easement in gross, of the nature, character, and to the extent hereinafter set forth over and upon all that certain parcel of land set forth and described above (hereinafter sometimes referred to as the "burdened premises" or the "premises").

2. The nature, character, and extent of the easement hereby granted are as follows"

(a.) The use and development of the burdened premises shall

forever be restricted to some or all of the following activities:

(i) agricultural operations, including soil preparation, cultivation, drainage, fertilization, irrigation, pest control, erosion control, and other normal and customary agricultural practices, all as designed and intended to promote and enhance open, undeveloped land and agricultural production, encompassing the production or raising of field crops, vegetables, fruits, trees, horticultural specialties, flowers, livestock (including cattle, sheep, goats, horses and poultry) and livestock products, and other ordinary farm products; and

(ii) the use of farm vehicles and equipment in connection with agricultural operation.

(b.) The term "agricultural operation" shall be construed so as to exclude the following activities:

(i) operation of riding academies, stables, dude ranches or the like, in which the use of the burdened premises includes the letting of horses or other animals for hire, or the giving of riding instruction on a commercial basis;

(ii) the holding of horse shows, rodeos, or similar events on other than a one-time basis;

(iii) recreational pursuits, whether commercial or in the nature of a membership club, such as the racing of horses or the holding of polo matches, on other than a one-time basis;

(iv) operation of zoos, in which admission or other fees are charged for viewing animals; and

(v) sod farming or other activities involving the repeated removal of topsoil from the burdened premises.

(c.) In furtherance of the restrictions imposed by this paragraph, the following activities are regulated as set forth below:

(A) Except to the extent specifically required for, or in direct aid of, the uses of the burdened premises which are permitted by paragraph 2 (a.) above --

(i) no trees or shrubs shall be destroyed, cut, or removed from the premises;

(ii) no dump or storage area for the disposal of ashes, trash, rubbish, sawdust, garbage, offal, or any unsightly or offensive material shall be established or permitted to exist on the premises, nor shall any burning of refuse be permitted thereon; and

(iii) the natural contours and subsurface conditions of the premises shall remain generally undisturbed, and in their present natural state;

(B) In all events --

(i) no permanent or temporary residential or nonresidential buildings or structures, including any billboards or other advertising signs, shall be constructed, erected, maintained, or moved onto or within the premises, except as provided in paragraph 3 (b.) below;

(ii) no commercial lumbering operations shall be undertaken on the premises, other than those associated with forestry management and approved by the Regional Forester of the State of New York;

(iii) no portion of the premises shall be used for a leaching or sewage disposal field; nor shall any portion of the premises be used for a drainage basin or sump, except in accordance with sound agricultural management practices and in order to control flooding or soil erosion on the premises;

(iv) no roads, streets, driveways, or rights of way for non-agricultural use shall be constructed or permitted to come into existence on the burdened premises; and

(v) no aboveground utilities or utility lines shall be installed on the burdened premises.

(d.) Nothing herein shall prevent the burdened premises from being allowed to lie unused or fallow; however, it is understood and agreed that it is the intent of the parties hereto that the burdened premises shall in fact be forever available for agricultural use and, to that end, GRANTOR shall do nothing which unreasonably hinders such use of the premises or which unreasonably diminishes the suitability of the premises for agricultural use.

(e.) GRANTEE shall have the right to inspect the burdened premises for the purpose of assuring itself that GRANTOR is not in violation of any of the terms and conditions of this easement, any such inspection to be by prior arrangement with, and at the reasonable convenience of, GRANTOR; provided, however, that GRANTEE may inspect the premises at other times if it has reasonable cause to believe a substantial violation of this easement is being undertaken or has occurred.

3. The nature, character, and extent of limitations on this easement shall be as follows:

(a.) The burdened premises shall not be open or available to the public for general or park use by reason of this easement, but instead shall remain at all times in GRANTOR's exclusive possession, and subject to GRANTOR's unqualified right to exclude all others therefrom by any and all lawful means, except as provided for in paragraph 2 (e.) above.

(b.) GRANTOR may continue to use, maintain, repair, and replace (in-place and in-kind) those nonresidential buildings and structures legally existing on the premises as of the date and year first above written; and GRANTOR may also construct or erect buildings and structures (including farmstands) reasonably necessary for agricultural operations actually being conducted on the burdened premises, provided site plan approval therefor is first obtained from the Planning Board of the Town of East Hampton.

(c.) All rights, interest, and privileges of GRANTOR in the burdened premises not specifically granted, transferred, bargained, sold, or conveyed to GRANTEE herein shall remain and reside with GRANTOR.

4. All of the benefits, burdens, conditions, and restrictions of this easement shall run with the land. To that end, all references herein to GRANTOR shall also refer to GRANTOR's successors in interest.

5. Failure of GRANTEE to insist upon the strict performance of any provision of this easement shall not abrogate, or be deemed to

waive, any of GRANTEE's rights under this easement.

6. In accordance with Section 247 of the General Municipal Law, GRANTEE hereby undertakes to cooperate to the extent legally permissible in having a valuation placed upon the burdened premises for the purposes of real estate taxation which takes into account, and is limited by, the use restrictions imposed by this easement.

7. If at any time the whole or any part of the burdened premises shall be taken or condemned by GRANTEE, by any other governmental body or entity, or by any public authority, the easement hereby granted shall terminate as to those portions of the premises so taken or condemned, so that as of the time of such taking or condemnation the burdened premises (or the portions so taken or condemned) shall not be subject to the restrictions set forth herein. In any such event, GRANTOR shall not be required to pay any penalties, nor shall the value of the burdened premises be in any way diminished or limited by this easement (even for the purposes of computing severance damages, if any, as to those parts of the premises not taken or condemned), nor shall any part of the condemnation award belong to or be payable to GRANTEE.

8. This easement shall be deemed a Conservation Easement subject to the provisions of Chapter 22 of the East Hampton Town Code.

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

\_\_\_\_\_  
[Name of Grantor] (GRANTOR)

ATTEST:

TOWN OF EAST HAMPTON (GRANTEE)

\_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Supervisor

ACKNOWLEDGEMENT\*

STATE OF NEW YORK )

ss.:

COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

RECORD AND RETURN TO:

TOWN CLERK  
TOWN OF EAST HAMPTON  
159 Pantigo Road  
East Hampton, New York 11937