

Tax Map No(s):

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

FORESTLAND PRESERVATION EASEMENT

STATE OF DELAWARE

FORESTLANDS PRESERVATION PROGRAM

THIS PRESERVATION EASEMENT, made, granted, assigned and conveyed this _____ day of _____, A.D. 200_, by _____, whose address is _____ and who are 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."

WHEREAS, Grantor is fee simple title holder of certain lands situated in _____ Hundred, Kent County, Delaware, being of record in Deed Book ____, Page ____ at the Office of the Recorder of Deeds, in and for ____ County, at _____, 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 _____" as prepared by _____, dated _____ and recorded in the aforesaid Office of the Recorder of Deeds in Plot Book _____, Page _____ (hereinafter the "Plot").

WHEREAS, the General Assembly of the State of Delaware has declared that the preservation of the State's farmlands and forestlands is considered essential to maintaining forestry 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 landowners to voluntarily place viable forestlands under protective restrictions through the creation of and participation in forestland preservation areas and sale and/or donation of development rights;

WHEREAS, the Grantor desires to grant and convey to the Foundation a forestlands preservation easement as provided in Chapter 9, Title 3 of the Delaware Code Annotated.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of _____ DOLLARS (\$_____.__), the receipt and sufficiency of which are hereby acknowledged, and in consideration of the benefits conferred under 3 Del.C. Ch. 9, hereby grants and conveys to the Foundation, its successors and assigns, a forestlands preservation easement 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:

1. No rezoning or major subdivision of the Parcel shall be allowed.
2. Activities conducted on the Parcel shall be limited to forestry production, forestry operations, forestry management and control, wildlife habitat management, and related activities, as defined in 3 Del.C. §934.
3. 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.
4. No conversion of the forestlands to cropland, pastureland, open space or other types of land uses shall be allowed.
5. No permanent commercial or industrial structures shall be located on the Parcel.
6. No mining, commercial or extractive uses unrelated to forestry operations shall be conducted on the Parcel.
7. Residential use of the Parcel shall be limited to usage of no more than one (1) acre of land for each twenty (20) acres of usable land on the Parcel, with a maximum of ten (10) acres of land being used for dwelling housing on the Parcel. The Parcel consists of _____ acres, of which _____ acres are usable for forestry and related uses. With respect to the acreage allowed for dwelling housing, there shall be a limit of three (3) dwelling houses for residential use placed on the allowable acreage at the three (3) locations designated on the Plot as "Residential Acreage", unless there exists three (3) or more dwelling houses on the Parcel as of the date hereof, in which case the allowable acreage shall be allocated to the existing dwelling houses and no additional dwelling houses shall be allowed. There are currently _____ dwelling houses located on the Property, and only _____ additional dwelling houses shall be allowed.
8. This easement shall be deemed a covenant which runs with and binds the Parcel permanently and in perpetuity, the terms and conditions of which shall be subject to specific performance and other action allowed under 3 Del.C. §920 and 939. This easement shall be binding upon the heirs, executors, administrators, successors and assigns of the Grantor. This easement may be managed, administered and enforced by the Grantee or the State of Delaware.

9. The provisions of Title 3, Chapter 9 of the Delaware Code Annotated and duly adopted regulations thereunder as such provisions relate to the Parcel shall govern this easement.

10. Grantor shall manage the Parcel in accordance with a forest management plan prepared by a professional forester that addresses the Grantor's forest management goals for the Parcel. 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.

11. Notwithstanding anything stated herein to the contrary, the rights afforded Grantee under this Preservation Easement may only be assigned by Grantee to a "qualified organization" within the meaning of Section 170(b)(1)(A)(v), 170(c)(1), 170(h)(3)(A) and 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 Preservation Easement, as described herein, will be maintained in perpetuity by such Assignee. If any such Assignee shall be dissolved or shall abandon this Preservation Easement or the rights and duties of enforcement herein set forth, the Preservation 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 Preservation Easement unless the Grantee, as a condition of such Assignment, requires the Assignee to carry out the conservation purposes of this Preservation Easement, as described herein. Grantee agrees to hold this Preservation Easement exclusively for conservation purposes as defined in Section 170(h)(4)(A) of the Internal Revenue Code.

12. The Preservation Easement granted hereunder shall be perpetual.

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

SIGNED AND DELIVERED
IN THE PRESENCE OF:

Witness _____ (SEAL)

STATE OF DELAWARE)
) SS.
COUNTY OF _____)

BE IT REMEMBERED that on this ____ day of _____, A.D. 200_, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, _____, parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their act and deed.

GIVEN under my hand and seal of office the day and year aforesaid.

Notary Public Signature

Notary Name – Typed or Printed

My Commission Expires: _____