

Prepared by Grantor's Counsel:

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TAX MAP NO. OR PIN: 6061-36-4829

Consideration: \$0.00

DEED OF GIFT OF EASEMENT

Exempted from recordation tax

Under the Code of Virginia (1950), as amended,
Sections 58.1-811 (A) (3), 58.1-811 (D) and from Circuit Court Clerk's fee under
Section 17.1-266

THIS DEED OF GIFT OF EASEMENT (the "**Easement**"), made this ____ day of _____, 2016, by and among the **MARCELO SANGUINETTI, TRUSTEE** of the **3M FAMILY TRUST** u/d/t dated December 3, 2012, its successors and assigns (herein called, "**Grantor**"); and **THE BOARD OF SUPERVISORS OF FAUQUIER COUNTY** of the Commonwealth of Virginia, its successors and assigns, grantee (the "**Grantee**") whose address is 10 Hotel Street, Warrenton, Virginia 20186; **JP MORGAN CHASE BANK, N.A.** (the "**Bank**") and **MELINDA CLAYON**, Trustee (the "**Trustee**");

RECITALS:

- A. **Whereas**, Grantor is the owner in fee simple of real property situated at 8517 Maidstone Road (State Route 713), Delaplane, Virginia 20144 in the Scott Magisterial District of Fauquier County, Virginia, containing in the aggregate, 43.91 acres, more or less, and more thoroughly described in Exhibit "A" attached hereto and incorporated herein, and hereinafter referred to as "**the Property**," and desires to convey to Grantee, for the public purpose identified herein, a perpetual conservation and open-space easement over the Property as herein set forth; and
- B. **Whereas**, Grantee is the governing body of a political subdivision of the Commonwealth of Virginia and a "qualified organization" and "eligible donee" under Section 170(h)(3) of the Internal Revenue Code and Treasury Regulation §1.170A-14(c)(1), is a public body under Section 10.1-1700 of the Code of Virginia, 1950, as amended, and is willing to accept an open-space easement over the Property as herein set forth; and
- C. **Whereas**, Chapter 461 of the Acts of 1966, codified in Chapter 17, Title 10.1, of the Code of Virginia, as amended (the "Open-Space Land Act"), declares that the preservation of open-space land serves a public purpose by curbing urban sprawl, preventing the spread of urban

blight and deterioration and encouraging more economic and desirable urban development, helping provide or preserve necessary park, recreational, historic and scenic areas, and conserving land and other natural resources, and authorizes the acquisition of interests in real property, including easements in gross, as a means of preserving open-space land; and

- D. **Whereas**, the Open-Space Land Act declares it to be the public policy of the Commonwealth to encourage preservation of open-space land and authorizes the Grantee to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historic, scientific, open-space and recreational lands of the Commonwealth.
- E. **Whereas**, the Property consists of 43.91 acres of farm and forested land, including 29.1 acres of soils defined by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture as being either Prime Farmland or Farmland of Statewide Importance;
- F. **Whereas**, the Property is situated in an agricultural and rural area of Fauquier County, is zoned Rural Agriculture (RA) District, and contains productive vineyard land; and
- G. **Whereas**, the Property has approximately 865 linear feet of frontage on State Route 713 (Maidstone Road) and 565 linear feet of frontage on State Route 624 (Lost Corner Road) which are a rural Fauquier County roads with views of the Property; and
- H. **Whereas**, the Property contains an ante-bellum log house constructed c. 1850 and is identified as a contributing resource (DHR #030-5434-0215) to the Cromwells Run Rural Historic District (Virginia Department of Historic Resources which has been listed in the Virginia Landmark Register (June 19, 2009) and on the National Register of Historic Places (June 19, 2008); and is further identified as a contributing resource (DHR # 030-5155-0006) to the Rectortown Historic District which was listed in the Virginia Landmarks Register and National Register of Historic Places in 2005.
- I. **Whereas**, the Property lies adjacent to land under conservation or open-space easement and contributes to the conservation or open-space values of such land under easement, including:
 - (i) an Open Space Easement held by the County of Fauquier on the adjoining property of High Clover, LLC (PIN 6061-46-7618).
 - (ii) an Open Space Easment held by the Virginia Outdoors Foundation on adjoining property owned by Thomas L. Higginson, Jr. (PIN 6061-25-2091).
 - (iii) An Open Space Easement held by the Land Trust of Virginia on the property owned by Ballina Farm, LLC (PIN 6061-45-4229).
- J. **Whereas**, the Property has approximately 1,545 linear feet on Chattins Run, a tributary to Goose Creek;
- K. **Whereas**, 26 U.S.C.A. §170(h)(1) of the Internal Revenue Code, the “**Revenue Code**”, defines a qualified conservation contribution as a contribution (A) of a “qualified real

property interest”, (B) to a “qualified organization”, (C) exclusively for “conservation purposes”; and

- L. **Whereas**, §170(h)(2)(C) defines the term “qualified real property interest” as “a restriction (granted in perpetuity) on the use which may be made of the real property.” An easement granted in perpetuity qualifies as a qualified real property interest under this section, Treasury Regulations §1.170A-14(b)(2); and
- M. **Whereas**, §170(h)(4) of the Revenue Code defines a conservation purpose as “(i) the preservation of land areas for outdoor recreation by, or the education of, the general public, (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, (iii) the preservation of open space (including farmland and forest land) where such preservation is (I) for the scenic enjoyment of the general public, or (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or (iv) the preservation of an historically important land area or certified historic structure;” and
- N. **Whereas**, this conservation easement in gross constitutes a restriction granted in perpetuity on the use which may be made of the Property, and is in furtherance of and pursuant to the clearly delineated governmental policies set forth below:
 - (i) Land conservation policies of the Commonwealth of Virginia as set forth in:
 - a. Section 1 of Article XI of the Constitution of Virginia, which states that it is the Commonwealth’s policy “to protect its atmosphere, lands and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth”;
 - b. The Virginia Conservation Easement Act (Code of Virginia, §§10.1-1009 et seq.), which provides for the conveyance of conservation easements in perpetuity for the purposes noted above;
 - c. The Virginia Land Conservation Incentives Act, Chapter 3 of Title 58.1, §§58.1-510 through 58.1-513 of the Code of Virginia, which supplements existing land conservation programs to further encourage the preservation and sustainability of the Commonwealth’s unique natural resources, wildlife habitats, open spaces and forest resources;
 - d. Chapter 32, of Title 58.1, §§58.1-3230 through 58.1-3244 of the Code of Virginia, which authorizes special use-value tax assessments for real estate devoted to agricultural, forestal, horticultural and open-space use;
 - (ii) Land use policies of the County of Fauquier as delineated in the Fauquier County Comprehensive Plan (1992-2010), adopted on September 20, 1994 and last amended February 20, 2014, (the “**Comprehensive Plan**”) to which plan the restrictions set forth in this deed conform as follows:
 - a. The County’s policies to: “Preserve preserve the County’s cultural, ecological and environmental resources to ensure the continued quality of life within the County for

its residents and visitors” (Comprehensive Plan, Chapter 1: Vision Statement, Guiding Principles and Policies, Policy 1), “Identify and protect productive agricultural and silvicultural lands. (Comprehensive Plan, Chapter 1: Vision Statement, Guiding Principles and Policies, Policy 2), “Use conservation easements . . . to protect these resources” (Comprehensive Plan, Chapter 1: Vision Statement, Guiding Principles and Policies, Policy 4), and “Safeguard the environment with water and air quality and natural resource management” (Comprehensive Plan, Chapter 1: Vision Statement, Guiding Principles and Policies, Policy 5).

- b. The County’s policy, as delineated in the Comprehensive Plan, Chapter 8, Rural Land Use Plan, for lands zoned “Rural Agriculture” (RA) and “Rural Conservation” (RC) of:
 - (i) Encouraging farming;
 - (ii) Directing growth to designated service districts and away from rural lands;
 - (iii) Protecting environmental, cultural and visual resources; and
 - (iv) Providing strict controls over all new development in rural areas; and
 - c. The County’s policy, as delineated in the Comprehensive Plan, Chapter 2B, Heritage Resources, protecting the County’s heritage sites including the contributing resources of the Rectortown Historic District as identified in the County’s Historic Resources Plan dated July 11, 2001 and adopted as part of the Comprehensive Plan.
- O. **Whereas**, as required by Section 10.1-1010(E) of the Virginia Conservation Easement Act, the limitations or obligations created by this Easement conform in all respects to the Comprehensive Plan;
- P. **Whereas**, preservation of the Property will promote the public policies of Fauquier County and further a public purpose of the Grantee by protecting open-space, productive agricultural lands, scenic views, historic, and natural resources; and
- Q. **Whereas**, the Grantor and the Grantee desire to protect in perpetuity the open-space values identified in the previous paragraphs, including, but not limited to, conserving and protecting agricultural and forestal lands as natural resources, protecting rural agricultural lands by prohibiting further subdivisions, protecting water quality, protecting scenic views and protecting open-space lands currently in open-space easements, and the historic values of the Property, the “**Open-Space Values**,” and intend to accomplish such protection by restricting the use of the Property as hereinafter set forth; and
- R. **Whereas**, the conservation purpose of this Easement is to preserve and protect in perpetuity the Open-Space Values of the Property (the “**Conservation Purposes**”); and
- S. **Whereas**, the retention, preservation and protection of the Open-Space Values will be a significant and substantial benefit to the public; and

- T. **Whereas**, the Grantee has determined that the restrictions hereinafter set forth in this Easement (the “**Restrictions**”) will preserve and protect in perpetuity the Open-Space Values of the Property, which advance the public purposes established in its Comprehensive Plan, which values are reflected in the preceding paragraphs, the Grantee’s evaluation of the Property, and as further documented in an inventory of relevant features of the Property in the “**3M Family Trust Baseline Documentation Report**,” incorporated herein by reference, acknowledged as an accurate description of the Property as of the date of donation and signed by the Grantor and the Grantee, to be maintained on file in the offices of the Grantee, and intended to serve as an accurate and objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement;
- U. **Whereas**, the Grantee has determined that the Restrictions will limit the uses of the Property to those uses consistent with, and not adversely affecting the Open-Space Values of the Property, the scenic values enjoyed by the general public, or the governmental conservation policies furthered by this Easement; and
- V. **Whereas**, the Grantee, by acceptance of this Easement by its Board of Supervisors at its meeting of _____, designates the Property to be retained and used for the preservation and provision of the Open-Space Values and of Open-Space land pursuant to the Open-Space Land Act; and
- W. **Whereas**, the Grantor intends to convey to the Grantee by this Easement the right to preserve and protect the Open-Space Values of the Property in perpetuity and to further the public purposes established in the Fauquier County Comprehensive Plan, and to qualify the grant of such restrictions and associated rights as a qualified conservation contribution under Section 170(h)(2)(c) of the Internal Revenue Code of 1986.

NOW, THEREFORE, pursuant to Chapter 17, Title 10.1 of the Code of Virginia (1950), as amended, in recognition of the foregoing and of the mutual covenants herein and the acceptance hereof by Grantee, Grantor does hereby give, grant and convey to Grantee an open-space Easement in gross over, and the right in perpetuity to restrict the use of, the Property, which is described in EXHIBIT “A” attached hereto and made a part hereof, and consists of 43.91 acres, located in the Scott Magisterial District, Fauquier County, Virginia , hereinafter referred to as the “**Property**.”

The Property is identified as Property Identification Number 6001-36-4829 among the tax records of Fauquier County, Virginia. Even if the Property should consist of more than one subdivided or tax parcel, it shall be considered one parcel for the purposes of this Easement, and the Restrictions and covenants of this Easement shall apply to the Property as a whole rather than to such individual parcels.

ARTICLE I – EASEMENT

1. PURPOSE.

The purpose of this Easement is to preserve and protect the conservation value of the Property in perpetuity by enforcing the restrictions imposed on the use of the Property by Article II, while allowing the Property to be used for all other uses by the owner as long

as such uses do not interfere with the conservation value of the Property. The conservation value of the Property is its value as open-space land as more specifically identified as the Open-Space Values described in the Recitals to this Easement which are hereby incorporated. By so doing, the Grantor and Grantee have the common purpose of preventing, through the enforcement powers granted to the Grantee, any use or development of the property that will adversely affect, or is inconsistent with or will conflict with, diminish, impair or interfere with the Open-Space Values.

2. DURATION.

This Easement shall be perpetual. It is an easement in gross which runs with the land as an incorporeal interest in the Property. The covenants, terms, conditions and restrictions contained in this Easement are binding upon, and inure to the benefit of, the Grantor and the Grantee, and their respective successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

3. NO PUBLIC ACCESS.

Although this Easement in gross will benefit the public as described above and the Property is visible from a public right-of-way, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. Grantor retains the exclusive right to such access and use, subject to the terms hereof. Provided, however, that at reasonable times, upon request of Grantee made with reasonable notice to Grantor, persons affiliated with educational organizations, professional architectural associations, and historical societies shall be admitted to study the property, provided such visits shall be at no cost to Grantor or visitors, and Grantor may place reasonable restrictions on the number of persons entering the property at any one time and may limit the access to three (3) days per year. In addition, Grantee may take exterior photographs, drawings, or other representations documenting the significant historical, cultural, and architectural character and features of the Property and may use or publish the same (or authorize others to do so) to fulfill its charitable or educational purposes or to raise public awareness of the heritage sites in the County, provided the photographs shall not be commercially sold without Grantor's consent. The access granted hereunder or any permission to enter the Property by Grantors or Grantee shall not be constructed as an invitation or license, and the Grantor and Grantee do not assume any liability to the general public for accidents, injuries, acts, or omissions beyond that defined by the standard of care owed by landowners under Virginia Recreational Use Statutes § 29.1-509 and any other applicable law.

ARTICLE II – RESTRICTIONS

Restrictions are hereby imposed on the use of the Property to protect the Open-Space Values of the Property pursuant to the public policies set forth above. The acts that the Grantor covenants to do and not to do upon the Property, and the restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. Division.

A. No Subdivision

Division of the Property is prohibited. The Property shall not be sold or conveyed except as a whole.

B. Boundary Line Adjustments

Boundary line adjustments with adjoining parcels of land are permitted and shall not be considered a prohibited division or separate conveyances of the Property, provided that Grantee is made party to the deed creating the boundary line adjustment and at least one of the following conditions is met:

- (i) The entire adjacent parcel is subject to a recorded open-space easement conveyed to Grantee, or other public body as defined in Section 10.1-1700 of the Code of Virginia or to a qualified organization as defined under section 170(h) of the Revenue Code (or any successor provision then applicable) ; and
- (ii) The proposed boundary line adjustment shall have been reviewed and approved in advance by the Board of Grantee or the governing body of any successor in interest to the Grantee.

2. DWELLINGS, STRUCTURES, ROADS, AND UTILITIES.

Grantor shall give Grantee at least thirty (30) days written notice before beginning construction or enlargement of any dwelling on the Property. No permanent or temporary buildings or structures may be built, maintained or replaced on the Property other than as set forth in this Section 2:

A. Dwellings and Structures

The following structures may be maintained, constructed, repaired or replaced upon the Property:

- (i) Primary Dwellings. One (1) primary single-family dwelling (one of which exists on the date of this Easement). A dwelling shall be regarded as a “primary dwelling” if it is the only dwelling located within a parcel or, in the event there is more than one dwelling on the parcel, if it is the largest dwelling located on the parcel. No primary dwelling shall exceed:
 - a. 4,500 square feet of Ground Area (as defined below).
 - b. For the purposes of this Easement, the term “**Ground Area**” means the impervious surface footprint of a building including covered porches, attached garages, and other impervious surfaces structures physically or structurally connected thereto but excluding connecting terraces, walkways, and driveways.
- (ii) Former Winery Complex. The existing former farm winery complex,

including the attached garages, and office space may be maintained, repaired, and replaced. Provided, no expansion of the existing structure is permitted without the written consent of the Grantee.

- (iii) Historic Log Cabin. The existing historic log building on the Property shall not be removed or demolished, nor shall the original historic portions of the structure be altered except in a way that would, in the opinion of the Grantee, be in keeping with the historic character of the Property and provided that Grantor gives Grantee thirty (30) days advance written notice to Grantee of such actions and Grantee's written approval prior to commencement of such action is obtained. Grantee shall respond to requests for approval within thirty (30) days of receipt of the request and all necessary information to respond. Existing non-historic additions and improvements may be maintained, repaired, improved and replaced. Nothing herein shall be construed to prohibit or restrict ordinary repair and maintenance. If the existing historic log building shall be destroyed by accidental destruction such as fire or storm, the same may be repaired, renovated, or replaced, in keeping with its original character and appearance and the limitations on size and other characteristics for structures referenced in this section. In such an event, the Grantor shall give the Grantee at least 30 days advance written notice before beginning construction or replacement of said structure.

- (iv) Non-residential outbuildings. Non-residential outbuildings and structures commonly and appropriately incidental to the ~~dwelling structures~~ permitted in Article II § 2.A, paragraphs (i), (ii) and (~~iii~~), provided such structures are sized appropriately to serve as amenities to single-family residential use, provided that the aggregate footprint of any new non-residential outbuildings and structures for the permitted dwelling shall not exceed: (a) 2,000 square feet in Ground Area for each permitted primary dwelling, or (b) 1,000 square feet in Ground Area for ~~each accessory dwelling, the log cabin or former farm winery complex.~~ The existing pool and pool house, and tennis court may be maintained, repaired, and replaced.

- (v) Farm Buildings. Farm buildings or structures, except that any new farm building or farm structure not in existence on the date of this Easement, or any extension of an existing structure, exceeding 2,500 square feet in Ground Area may not be constructed on the Property unless prior written approval for the building or structure exceeding either limitation shall have been obtained from Grantee, which approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the Open-Space Values of the Property. The existing chicken coop, garages, equipment shed, and may be maintained, repaired and replaced. For purposes of this subparagraph, a farm building or structure shall mean a building or structure originally constructed for the activities specified in Article II §3.B(i), (ii) or (iii).

- (vi) Miscellaneous. Small-scale miscellaneous structures, the existence of which are consistent with the conservation purposes of this Easement and which will not impair the Open-Space Values protected herein, such as hunting stands, wildlife observation structures, run-in sheds, fences including deer fences to protect crops (provided any fence over five feet in height shall be constructed with materials that will not block the public view of the Property from a state maintained road), boardwalks, or structures for crossing of streams or wetlands. Any such structure shall not exceed 200 square feet in Ground Area unless prior written approval shall have been obtained from the Grantee.
- (vii) Modification. Except as set forth herein in Article II § 2.A(ii), any building may be expanded, demolished and replaced subject to the restrictions of this Easement. Subject to the collective footprint limitation in Article II §2.C, the restrictions in this § 2.A may be modified or adjusted only with the prior written approval of the Grantee and only upon a finding that the adjustment will not negatively impact or impair the Open-Space Values and Conservation Purposes of this Easement and that scale of the proposed building or structure is proportional to those in the surrounding area.
- (viii) Roads. Private roads to serve permitted dwellings or structures and roads with permeable surfaces for other permitted uses under Article II §3.B may be constructed and maintained.

B. Utilities

- (i) Energy structures used to harness natural renewable energy sources such as the sun, wind, water, or biomass and scaled to provide electrical energy or pump water for permitted dwellings, structures, and activities on the Property, which limitation shall not be deemed to prohibit the sale of excess power generated incidentally in the operation of such structures and associated equipment including, but not limited to, solar panels, wind turbines, and micro-hydro installations, if approved in writing by Grantee, to provide electrical energy to neighboring properties; and
- (ii) Public or private utilities, including sinking of wells and installation of septic fields, to serve permitted dwellings or structures.
- (iii) Utilities that do not serve permitted structures on the Property require the Grantee's review and prior written determination that the construction and maintenance of such utility will not impair the conservation value of the Property.

C. Collective Footprint Limitation.

The total collective footprint of all buildings or structures permitted on the Property shall not exceed one and one and one half percent (1.5%) of the total Ground Area of

the Property, excluding existing roads, driveways, and walkways; provided, however, that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the Conservation Purposes and Open-Space Values protected in this Easement, Grantee may approve such increase. The collective footprint of buildings shall be the Ground Area measured in square feet of the structures set forth in Article II § 2.A above and shall be compared to the total square footage of the Property.

D. Location Restrictions.

No new structure permitted under this Article II §2 shall be constructed within the following locations:

- (1) Within view of the public rights of way adjoining the Property.
- (2) Within the stream buffers required in Section II.8.

E. Grantee Approval Required.

To ensure that the location of any new structure complies with the location and size restrictions set forth in this Easement, Grantor will provide at least thirty (30) days prior written notice to Grantee prior to commencement of construction of any new buildings, utilities, and structures permitted under this Article II § 2 or prior to applying for a building permit.

F. Reservation Of Rights.

Except as expressly limited hereby, Grantor reserves the right to continue all manner of existing residential and agricultural use and enjoyment of the Property and structures as documented herein and in the Baseline Documentation Report, and including but not limited to the maintenance, repair, and restoration of existing fences and structures; the right to maintain existing driveways, roads, watering troughs, and paths with the use of same or similar surface materials (or improved materials if prior written approval of Grantee is obtained); the right to maintain existing utility lines, gardening and building walkways, steps, and garden fences; the right to cut, remove, and clear grass or other vegetation and to perform routine maintenance, landscaping, horticultural activities, and upkeep, consistent with the Conservation Purpose and Open-Space Values and as limited in this conservation easement.

3. INDUSTRIAL OR COMMERCIAL ACTIVITIES.

A. Definitions.

Unless otherwise defined herein, the terms set forth in this Section 3 shall have the same meaning as set forth in the Fauquier County Zoning Ordinance, as amended through August 2015 (the “Zoning Ordinance”). Subsequent amendment of the ordinance, including any expansion of allowed uses thereunder, shall not increase the

Permitted Uses in Section 3.B below to the extent that any such amendment would permit uses more intrusive than the Permitted Uses or inconsistent with the Conservation Purpose or Open-Space Values of this Easement in the reasonable opinion of the Grantee.

B. Permitted Uses.

Residential uses and accessory uses are permitted. Industrial or commercial activities (including, without limitation, any activity for which Grantor receives monetary compensation) other than the following are prohibited:

- (i) agriculture, including livestock production and animal husbandry, aquaculture, silviculture, viticulture, equine activities and forestry, as well as agricultural-related activities.
- (ii) related small-scale commercial agricultural operations that Grantee may approve in writing as being consistent with the Conservation Values of this Easement; provided, however, that (a) farm wineries, breweries and distilleries with onsite sales or tastings, (b) animal race tracks, (c) animal slaughtering facilities, (d) industrial chicken or pork farming, and (e) livestock feed lots are specifically prohibited.
- (iii) processing and sale of Agricultural Products produced on the Property (other than as expressly prohibited above) as long as the same may be processed or sold in buildings existing on the Property as of the date hereof, or if intended to be processed or sold in farm structures otherwise allowed to be constructed or approved by Grantee for construction under Article II§ 2.A above, then with the written approval of Grantee.
- (iv) home occupation activities allowed under then current zoning applicable to the Property as long as the same are of an office, craft or artisanal nature, are wholly contained within a structure existing on the Property as of the date hereof or otherwise permitted hereby and do not require or utilize any outdoor storage or activity, do not involve significant customer visitation to the Property, and are approved in writing by Grantee upon a determination that such activities do not conflict with the conservation values being protected herein.
- (v) adaptive uses within the historic log structure as set forth in Section 5-700 and within the non-common open space under section 5-1812 of the Zoning Ordinance, subject to the restrictions therein.
- (vi) Receptions (not to exceed five times per year) shall be permitted subject to the same restrictions applicable to such use in the Zoning Ordinance and as may be imposed by any required special exception.

- (vii) the sale of excess power generated incidentally in the operation of approved alternative energy structures and associated equipment primarily sized and constructed to serve only the energy needs of the Property, as permitted in Article II § 2.B above.
- (viii) activities to restore or enhance wetlands or streams or to restore, enhance or develop other ecosystem functions on the Property including, but not limited to, stream bank restoration, wetland and stream mitigation, biological carbon sequestration and biodiversity mitigation; provided that (a) such activities are not in conflict with the conservation Values being protected herein and that written approval for the same shall have been obtained from Grantee, and (b) Grantee is not responsible for monitoring any such activities and has no obligation to enforce the provisions of any permit, restriction or easement therefor. Subject to Grantee's approval, Grantor is free to participate in same in Grantor's discretion and to retain any remuneration derived therefrom.
- (ix) The parties acknowledge and agree that the above-referenced restrictions are intended to limit the commercial recreational use of the property to a *de minimis* level as defined from time to time under the I.R.C. and Treasury Regulations. Notwithstanding any other provision of this Deed of Easement, should the I.R.C. or Treasury regulations impose more stringent restrictions on *de minimis* commercial recreational uses than those set forth above, those more stringent restrictions shall apply.

C. Approval

Approval of any activity under this Section 3 shall be within the sole, but reasonable discretion of Grantee, and may be subject to such conditions as Grantee may reasonably impose in order to preserve the Open-Space Values protected herein. Grantee shall respond to requests for approval within thirty (30) days of receipt of the request and all necessary information to respond. Grantor and Grantee understand and agree that activities permissible under current or then existing zoning regulations applicable to the Property are not necessarily intended to be the standard for approval hereunder, it being acknowledged that the purpose and intent of this Deed of Easement is to restrict the use of the Property beyond the applicable zoning regulations in order to protect the Open-Space Values expressed and protected herein.

4. MANAGEMENT OF FOREST.

A. Plan Required

A forest stewardship plan prepared by a professional forester shall be provided to Grantee prior to any commercial timber harvesting. The primary purposes of the forest management plan shall be to maintain a working forest, improve wildlife habitat, maintain the health of the forest and conserve soil and water. At least thirty (30) days before beginning any commercial timber harvesting, a timber sales contract, pre-harvest

plan or other documentation of the intended harvest shall be submitted to Grantee. Best Management Practices, as defined by the Virginia Department of Forestry, shall be used to control erosion and protect water quality when any commercial forestry or land clearing activity is undertaken.

B. Exception.

Notwithstanding the foregoing, the following shall be permissible on the Property and shall not constitute commercial or industrial timber harvesting:

- (i) The cutting and removal of trees for Grantor's domestic consumption;
- (ii) The cutting and removal of trees or brush in connection with the construction of permitted structures, roads, trails and fences and to accommodate other permitted activities under Article II §§ 2 and 3 (except forestry uses); and
- (iii) The cutting and removal of diseased or dead trees, or trees, which, were they not removed, would present a hazard to health or safety.

5. GRADING, BLASTING, MINING.

Grading, blasting or earth removal shall not materially alter the topography of the Property except for dam construction to create private ponds, stream bank restoration and erosion control pursuant to a government permit, or as required in the construction of permitted buildings, structures, private roads, and utilities as permitted in Article II § (ii). Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in such construction. Generally accepted agricultural activities shall not constitute a material alteration. Surface mining, subsurface mining or drilling for oil or gas on the Property is prohibited. Notwithstanding the foregoing, the removal of surface rocks or boulders for agricultural purposes is permitted. In addition, any permitted conversion of forested property shall be governed by the following practices:

- (i) Clearing shall be done when the soil moisture content is such that soil structural damage or compaction is minimized.
- (ii) A 50-foot wide undisturbed area will be left between the area being cleared and all wetlands, water bodies and perennial streams except where greater riparian buffers are required herein.
- (iii) Temporary cover will be established as necessary to control sheet and rill and/or wind erosion on the cleared area until the planned land use is in place.
- (iv) The cleared area shall be left in a neat and sightly condition that will facilitate the planned use and treatment of the land.
- (v) Clearing debris shall not be pushed into standing or green timber. Debris piles shall not be closer than 100 feet from adjacent woodland, buildings or roads.

6. ACCUMULATION OF TRASH.

Accumulation or dumping of trash, refuse, junk, or toxic materials is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property.

7. SIGNS.

Display of billboards, signs, or other advertisements that are visible from outside the Property is not permitted on or over the Property except signs not exceeding nine square feet in size to:

- (i) state the name and/or address of the owners of the Property and the name of the farm;
- (ii) advertise the sale or lease of the Property;
- (iii) advertise the sale of goods or services produced incidentally to a permitted use of the Property or an event being held thereon;
- (iv) provide notice necessary for the protection of the Property;
- (v) give directions to visitors;
- (vi) recognize historic status or participation in a conservation program;
- (vii) advertise political candidates or parties, and
- (viii) to comply with the law or any regulatory requirements.

8. RIPARIAN BUFFER

To protect water quality of the Chattins Run (the “Protected Stream”), Grantee covenants and agrees there that in a one hundred foot (100’) buffer strip along each edge of the Protected Stream / (the “buffer area”) as measured from the top of the stream bank, there shall be no buildings or other structures constructed, no storage of compost, manure, fertilizers, chemicals, machinery or equipment, and no cultivation or other earthdisturbing activity conducted, except as may be reasonably necessary for:

- (i) stream bank restoration and erosion control pursuant to a government permit;
- (ii) fencing along or within the buffer area;
- (iii) Provided the water-quality protection function of the buffer area is not impaired, removal of trees presenting a danger to persons or property and removal of diseased, dead or non-native invasive trees, shrubs or plants;

- (iv) construction and maintenance of stream crossings which allow for unobstructed water flow and wildlife movement;
- (v) creation and maintenance of foot or horse trails with unimproved surfaces;
- (vi) Improvement of the viewshed from the dwelling by the minimal harvesting of trees or limbing of the tree canopy; and
- (vii) Limited mowing to control non-native invasive species or protect trees and other plants planted in the buffer area.
- (viii) clearing, grading and dam construction to create ponds (but not storm water retention or detention ponds to serve other properties).

9. FARM CONSERVATION PLAN.

As long as at least five acres of the Property are in agricultural production, the Property months of the date hereof, which terms and conditions are incorporated herein by reference. The Farm Management Plan shall incorporate Best Management Practices for water quality protection, be approved by the Grantee, and may, from time to time, be modified or amended by mutual agreement of the Grantor and Grantee, provided that said Farm Conservation Plan (or any modification or amendment thereof) shall not be inconsistent with or conflict, diminish, impair, or interfere with the Open-Space Values protected by this Deed of Easement. shall be managed in accordance with a written Farm Conservation Plan for this Property prepared by the John Marshall Soil and Water Conservation District, within six (6) months after the date of recording this Easement.

ARTICLE III – ENFORCEMENT

1. ENTRY/RIGHT OF INSPECTION.

Grantor covenants and agrees that representatives or agents of Grantee may enter the Property from time to time for purposes of inspection and enforcement of the terms of this Easement after permission from, or reasonable notice to, the Grantor or the Grantor's representative, provided, however, that in the event of an emergency, entrance may be made to prevent, terminate or mitigate a potential violation of these restrictions with notice to the Grantor or Grantor's representative being given at the earliest practicable time. Reasonable notice for non-emergencies shall be considered as not less than fifteen (15) days.

2. ENFORCEMENT.

The parties agree that monetary damages would not be an adequate remedy for the breach of any terms, conditions and restrictions herein contained. Grantor hereby grants and conveys to Grantee the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this Easement

as existed on the date of the gift of the Easement, except to the extent such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance, and to enjoin non-compliance by *ex parte* temporary or permanent injunction. If the court determines that Grantor failed to comply with this Easement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and reasonable attorney's fees, in addition to any other payments ordered by the court.

3. NATURAL CAUSES

Notwithstanding any other provision of this Easement, Grantor shall not be responsible or liable for any damage or change to the condition of the Property caused by fire, flood, storm, Act of God, governmental act or other cause outside of Grantor's control or any prudent action taken by Grantor to avoid, abate, prevent or mitigate damage or changes to the Property from such causes.

4. FAILURE TO ENFORCE

The failure of Grantee to enforce any term of this Easement shall not be deemed a waiver of the right to do so thereafter, nor discharge nor relieve Grantor from thereby complying with any such term. Furthermore, the Grantor hereby waives any defense of laches, estoppel, or prescription.

ARTICLE IV – AMENDMENT

1. GRANTEE'S PROPERTY RIGHT.

Grantor covenants and agrees that the donation of this Easement gives rise to a property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time.

2. EXTINGUISHMENT, CONVERSION, DIVERSION.

Grantor and Grantee covenant and agree that this Easement is perpetual and shall not be extinguished, and acknowledge that extinguishment of the Easement is not permitted by the Open-Space Land Act. Nevertheless, should any attempt be made to extinguish the Easement, any such extinguishment can be made only by judicial proceedings and only if such extinguishment also complies with Virginia Code Section 10.1-1704. In addition, no part of the Property may be converted or diverted from its open-space use except in compliance with the provisions of Section 10.1-1704 and the provisions of Section 170 of the Internal Revenue Code and the applicable Treasury Regulations. In any sale or exchange of the Property subsequent to an extinguishment, Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth in Article IV § 1 above, but not to be less than the proportionate value that the perpetual conservation restriction at the time of the extinguishment bears to the then value of the Property as a whole. Grantee covenants and

agrees to use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purpose of this easement and the Open-Space Land Act.

3. AMENDMENT.

Grantor and Grantee, or Grantee and the then owner of the Property, may amend or modify the Easement to strengthen its terms, increase protection of the Property's conservation value and natural resources, add to the restricted property, provided that no amendment shall be allowed which affects the Easement's perpetual duration or results in any financial benefit to the Grantor or the then property owner. No amendment or modification shall be effective unless documented in a notarized writing executed by Grantee and the then owner of the Property and recorded among the land records of the Fauquier County, Virginia.

ARTICLE V - DOCUMENTATION

1. DOCUMENTATION.

Documentation retained in the office of Grantee including, but not limited to the Baseline Documentation Report, describes the condition and character of the Property at the time of the gift. The Documentation may be used to determine compliance with and enforcement of the terms of the Easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination. Grantor has made available to Grantee, prior to the donation, documentation sufficient to establish the condition of the Property at the time of the gift. The parties hereby acknowledge that the documentation supplied and contained in the files of Grantee is an accurate representation of the Property.

ARTICLE VI - GENERAL PROVISIONS

1. TITLE.

Grantor covenants and warrants that Grantor has good title to the Property, that Grantor has all right and authority to grant and convey this Easement and that the Property is free and clear of all encumbrances (except utility and access easements of record), including, but not limited to, any mortgages, judgments or other liens not subordinated to this Easement. The holders of all liens or other encumbrances arising from borrowing have subordinated their interests in the Property to the operation and effect of this Easement, by their execution hereof. Nothing herein shall prevent Grantor from obtaining, without Grantee approval, future financing secured by all or part of the Property or improvements thereon at any time. Any such financing shall be subordinated to this Easement.

2. ACCEPTANCE.

Acceptance of this conveyance by Grantee is authorized by Virginia Code Section 10.1-1701 and is evidenced by the signature of Paul McCulla, County Administrator, by authority granted by Grantee's Board, _____, 2016.

3. ASSIGNMENT BY GRANTEE.

Grantee may transfer or convey this Easement only if Grantee conditions such transfer or conveyance on the requirements that;

- (i) All restrictions and conservation purposes set forth in this Easement are to be continued in perpetuity; and
- (ii) The transferee agrees not to convert or divert the Property from open-space land uses except as permissible under Section 170 of the Internal Revenue Code, as amended, and under Section 10.1-1704 of the Open-Space Land Act; and
- (iii) The transferee then qualifies as an eligible donee as defined in Section 170(h)(3) of the Internal Revenue Code, as amended, and the applicable Treasury Regulations; and
- (iv) The transferee records among the land records where the Easement is recorded an assignment of the Easement and provides written notice of such assignment to the Grantor or the then current owner of the Property.

4. NOTICES TO GRANTEE.

Grantor shall notify Grantee in writing at, or prior to, closing on any inter vivos transfer or sale of the Property. Any notices, requests for approval or other communications to Grantee or any notices, responses to requests for approval or other communications to Grantor under any section of this Easement shall be in writing and sent to the following addresses or to such addresses as may hereafter be specified in writing:

Grantee:
Board of Supervisors of Fauquier County
Care of: Fauquier County Administrator
10 Hotel Street
Warrenton, Virginia 20186

Grantor:
Marcelo Sanguinetti, Trustee
3M Family Trust
2308 Wyoming Avenue, NW
Washington, D.C. 20008

5. INCLUSION OF TERMS IN SUBSEQUENT DEEDS.

This Easement shall be referenced by deed book and page number, instrument number or other appropriate reference in any deed or other instrument conveying any interest in the Property.

6. CONSTRUCTION.

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of the Easement and the policy and purposes of Grantee. If any provision of this Easement is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. Notwithstanding the forgoing, lawful acts or uses not expressly prohibited by this Easement are permitted on the Property. Grantor and Grantee intend that the grant of this Easement qualify as a “qualified conservation contribution” as that term is defined in Section 170(h)(1) of the Internal Revenue Code and Treasury Regulations §1.170A-14, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this Easement from being a qualified conservation contribution.

7. INTERACTION WITH OTHER LAWS.

This Easement does not permit any use of the Property which is otherwise prohibited by federal, state, or local law or regulation. Neither the 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. No development rights that have been encumbered or extinguished by this Easement shall be transferred to or counted towards development of any other property pursuant to a transferable development rights scheme, cluster development arrangement or otherwise.

8. ZONING ORDINANCE.

Notwithstanding any other provision of this Easement, Grantee’s Zoning Ordinance shall apply to the Property and shall take precedence over this Easement to the extent that the Zoning Ordinance regulations are more restrictive than the terms of this Easement.

9. MERGER.

Grantor and Grantee agree that in the event that Grantee acquires a fee interest in the Property, this Easement shall not merge into the fee interest, but shall survive the deed and continue to encumber the Property.

10. TAX MATTERS.

The parties hereto agree and understand that any value of this Easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see Section 1.170A-13(c)(5)),

and that the appraisal is subject to review, audit and challenge by all appropriate tax authorities. The Grantee makes no express or implied warranties that any tax benefits will be available to Grantor from donation of this Easement, or that any such tax benefits might be transferable, or that there will be any market for any tax benefits that might be transferable. By its execution hereof, Grantee acknowledges and confirms receipt of the Easement and further acknowledges that Grantee has not provided any goods or services to Grantor in consideration of the grant of the Easement.

11. WARRANTIES.

THE COUNTY OF FAUQUIER AND ANY CO-HOLDER MAKE NO EXPRESS OR IMPLIED WARRANTIES REGARDING WHETHER ANY TAX BENEFITS WILL BE AVAILABLE TO GRANTOR FROM THE DONATION OR ANY PARTIAL DONATION OF THIS EASEMENT, NOR WHETHER ANY SUCH TAX BENEFITS MIGHT BE TRANSFERABLE, NOR WHETHER THERE WILL BE ANY MARKET FOR ANY TAX BENEFITS WHICH MIGHT BE TRANSFERABLE, NOR WHETHER THIS DEED OR ANY OTHER FORM OR DOCUMENTATION PREPARED BY THE COUNTY WILL SATISFY ANY STATE OR FEDERAL REQUIREMENT, LAW OR REGULATION RELATED TO TAX CREDITS OR DEDUCTIONS FOR THE DONATION OR PARTIAL DONATION OF THIS EASEMENT.

12. RIGHT TO DESIGNATE EASEMENT CO-HOLDER.

Grantee shall have the right, in its sole discretion, now and at any time in the future, to transfer part or all interest it has under this Easement to a public body as the same is defined in Section 10.1-1700 of the Open-Space Land Act. Such transfer shall not require the consent of the Grantor or any trustee under a deed of trust which has been subordinated to this Easement, but shall be subject to the conditions and requirements of subsection 3 of this section (Assignment by Grantee).

13. SEVERABILITY.

If any provision of this deed or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this Easement shall not be affected thereby.

14. ENTIRE AGREEMENT.

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement.

15. CONTROLLING LAW.

The interpretation and performance of this Easement shall be governed by the laws of the Commonwealth of Virginia.

16. RECORDING AND EFFECTIVE DATE.

This Easement shall be effective when recorded in the land records office of the Circuit Court of Fauquier County, Virginia, and Grantee may re-record it any time as may be required to preserve its rights under this Easement.

17. SUCCESSORS IN INTEREST.

This Easement, its grant, and its Terms and Conditions, shall be binding upon, and inure to the benefit of, the parties hereto and their respective agents, personal representatives, heirs, successors, and assigns (herein "Successors in Interest") and shall continue as a servitude running in perpetuity with the Property.

18. VESTING OF CONSERVATION EASEMENT.

Should the Grantee, including any of its Successors in Interest, cease to exist, or not qualify as a "qualified organization" under section 170(h) of the Revenue Code (or any successor provision then applicable) or otherwise cease to be eligible to hold this Conservation Easement directly under the laws of the Commonwealth of Virginia, unless the Conservation Easement has been assigned prior to cessation to another holder qualified according to the provisions of the laws of the Commonwealth of Virginia and the provisions of Section Article VI § 3 above, this Easement and all rights of enforcement shall vest in the Virginia Outdoors Foundation. If the qualifying holding entity or the successors or assigns thereof, or the Virginia Outdoors Foundation, should cease to exist, or should not qualify as a "qualified organization" under section 170(h) of the Revenue Code (or any successor provision then applicable) or should otherwise cease to be eligible to receive this Easement directly under the laws of the Commonwealth of Virginia, a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Easement.

19. APPLICABLE LAW.

This Conservation Easement shall be interpreted under the laws of the Commonwealth of Virginia.

20. COUNTERPARTS.

This Easement may be executed in one or more counterpart copies, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same Easement. Execution of this Easement at different times and in different places by the parties hereto shall not affect the validity of the Easement.

21. SUBORDINATION OF DEED OF TRUST.

JP Morgan Chase Bank, N.A. (the "Lender") is the secured party under a certain Deed of Trust dated August 18, 2014 and recorded in the Clerk's Office of the Circuit Court of the County of Fauquier, Virginia in Deed Book 1466 at Page 633, which subjects the Property to the Lender's lien. The Lender hereby consents to the terms, conditions, restrictions and intent of this Easement, and agrees that the lien represented by said Deed

of Trust shall be held subject to said terms, conditions, restrictions and intent of this Easement and joins in this Deed to reflect its direction to the Trustee to execute this Easement to give effect to the subordination of such Deed of Trust to this Easement. The Trustee(s) join(s) in the execution of this Easement to confirm that in the event of foreclosure under the deed of trust or other sale of the property described in the deed of trust under judicial or non-judicial proceedings, the property will be sold subject to this Easement.

WITNESS the following signatures and seals.

[Counterpart signature pages follow]

[Counterpart signature page 1 of 4]

By: _____ (SEAL)
Marcelo Sanguinetti, Trustee
of the 3M Family Trust u/d/t dated December 3, 2012

COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this ___ day of _____, 2016, by Marcel Sanguinetti, Trustee of the 3M Family Trust u/d/t dated December 3, 2012.

Notary Public (SEAL)

My commission expires: _____
Registration #: _____

[Counterpart signature page 2 of 4]

Accepted:

BOARD OF SUPERVISORS OF FAUQUIER COUNTY, VIRGINIA
A body corporate and politic

By: _____
Paul McCulla
Its County Administrator

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAUQUIER, TO WIT:

I, _____, a Notary Public for the Commonwealth aforesaid, hereby certify that Paul McCulla, Fauquier County Administrator, personally appeared before me this day and acknowledged the foregoing instrument on behalf of the Board of Supervisors of Fauquier County, Virginia.

WITNESS my hand and official seal this ____ day of _____, 2016.

Notary Public

My commission expires: _____ (SEAL)

[Counterpart signature page 3 of 4]

Lender:

JP MORGAN CHASE BANK, N.A.

By: _____

Name: _____

Title: _____

STATE OF _____,

CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by _____ [name of officer], _____ [title of officer] of JP MORGAN CHASE BANK, N.A. on behalf of the bank.

Notary Public

My commission expires: _____ (SEAL)

Registration No. _____

[Counterpart signature page 4 of 4]

Melinda Clayton, Trustee for
JP Morgan Chase Bank, N.A.

COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this _____ day of
_____, 2016 by Melinda Clayton, Trustee.

Notary Public

My commission expires: _____ (SEAL)

Registration No. _____

EXHIBIT A

Legal Description

ALL THAT certain tract or parcel of land situate, lying and being in Scott Magisterial District, Fauquier County, Virginia, known as "Parcel 4, containing 43.91 acres, more or less, as shown on plat o survey by Richard U. Goode, CLS, dated December 9, 1987 and recorded with that certain deed of Wiley T. Buchanan, III unmarried, dated February 9, 1988 and recorded February 17, 1988 in Deed Book 591 at Page 1277 in the Clerk's Office of the Circuit Court of Fauquier County, Virginia, and further described on that plat with metes and bounds description by Richard U. Goode, CLS, dated December 2, 1991 attached to and recorded with the Deed in Deed Book 685 at Page 851.