

**AGRICULTURAL DEED RESTRICTION TEMPLATE
FOR FARMLAND PRESERVATION PURPOSES
[Municipal Form] OF _____**

This Agricultural Deed Restriction is made _____, 20____.

BETWEEN _____, whose address is _____ and is referred to as the Grantor;

AND the [Municipal Form] of _____, whose address is _____ and is referred to as the Grantee and/or [Municipal Form].

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee all of the nonagricultural development rights and credits on the area subject to the Agricultural Deed Restriction, also referred to as "Premises".

The tax map reference for the Premises is:
[Municipal Form] of _____, County of _____
Block(s) _____, Lot(s) _____

WHEREAS, the [Municipal Form] of _____ acknowledges that development of agriculture and retention of farmland is important to the economy and welfare of its citizens; and

WHEREAS, as set forth in N.J.S.A. 40A:55D-2p., a stated purpose of the Municipal Land Use Law is to provide municipalities with the flexibility to employ planning tools, such as cluster development, to accommodate growth while preserving agricultural lands, open space, and historic sites; and

WHEREAS, N.J.S.A. 40:55D-3 defines "cluster development" as "a contiguous cluster or noncontiguous cluster that is not a planned development"; and

WHEREAS, N.J.S.A. 40:55D-39h.(1) authorizes municipalities to include in their subdivision or site plan ordinances provisions for cluster development in order to permanently protect land for agricultural purposes; and

WHEREAS, N.J.S.A. 40:55D-39.1d.(1) provides that a municipal ordinance authorizing cluster development for the purpose of permanently protecting agricultural land contains a requirement that such preservation be effectuated by a recorded agricultural deed restriction using a template prepared or approved by the State Agriculture Development Committee; and

WHEREAS, at its meeting of _____, 20__, the State Agriculture Development Committee granted approval to the [Municipal Form] of _____'s agricultural restriction; and

WHEREAS, Ordinance _____ permits the use of clustering and/or non-contiguous clustering (as applicable) within the [Municipal Form] of _____ to concentrate development in areas where growth can best be accommodated and maximized while preserving agricultural lands; and

WHEREAS, Grantor received final subdivision and/or site plan approval (as applicable) for Block(s) _____, Lot(s) _____ on _____, 20__ as memorialized in _____ [Municipal Form] Planning Board Resolution # [or "No."] _____ dated _____, and

WHEREAS, final subdivision and/or site plan (as applicable) approval permitted transfer of density from Block(s) _____, Lot(s) _____ in connection with the development of Block(s) _____, Lot(s) _____, pursuant to Ordinance _____; and

Prepared by: _____

Print name and title

WHEREAS, it is the intention of the Grantee to permanently preserve Block(s) ____, Lot(s) __ through this Agricultural Deed Restriction for Farmland Preservation Purposes (hereinafter, the "Agricultural Deed Restriction"); and

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited unless specifically authorized herein.

2. Except as otherwise provided herein, the Premises shall be retained for agricultural use and production. Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading of product, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

3. Grantor certifies that at the time of the execution of this Agricultural Deed Restriction the nonagricultural uses indicated on attached Schedule (A) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Agricultural Deed Restriction.

4. All nonagricultural uses, if any, existing on the Premises at the time of the execution of this Agricultural Deed Restriction as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No change in the pre-existing nonagricultural use is permitted ;
- ii. No expansion of the pre-existing nonagricultural use is permitted; and
- iii. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. The *[Municipal Form]* of _____ may, in its discretion and pursuant to N.J.S.A. 40:55D-39.1d.(2)(a), permit limited non-agricultural uses on the Premises, and such uses shall be governed by the applicable standards set forth in N.J.S.A. 4:1C-32.1 and 32.3 (P.L.2015, c.275) and attendant regulations.

6. The boundaries of the Premises may be adjusted to accommodate future public improvements including, but not limited to, roadways, drainage facilities and other public infrastructure following a determination by the _____ *[Municipal Form]* Planning Board, in consultation with the *[Municipal Form]* Agricultural Advisory Committee, if applicable, that the amendment would result in only a de minimis impact to the area of the Premises.

7. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

8. No dumping or placing of trash shall be permitted on the Premises. The placement of other waste material shall be permitted on the Premises only if expressly recommended by the State Agriculture Development Committee as an agricultural management practice pursuant to N.J.A.C. 2:76-2A.1, et seq.

9. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises. Activities performed in conformance with a farm conservation plan approved by the local soil conservation district that meet or exceed the Basic Assessment Level in the U.S. Department of Agriculture Natural Resources Conservation Service *National and State Resource Concerns and Planning Criteria* in Section III of the Field

Office Technical Guide, as may be amended and supplemented, shall be permitted.

10. Grantee, and the entities identified in Paragraph 19, shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Agricultural Deed Restriction. Grantee agrees to give Grantor, and the entities identified in Paragraph 19, at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

11. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

12. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Agricultural Deed Restriction or as otherwise provided by law.

13. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Agricultural Deed Restriction.

14. Nothing in this Agricultural Deed Restriction shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this Agricultural Deed Restriction. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

15. At the time of this conveyance, Grantor has ____ (__) existing single family residential buildings on the Premises, ____ (__) residential buildings used for agricultural labor purposes and ____ (__) recreational buildings. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural and recreational uses; and

16. No additional future housing opportunities shall be permitted on the Premises.

OR

16. Limited additional future housing opportunities that directly support the property's agricultural operations and are appropriate to the scale of the preserved farmland may be permitted... **(SEE FOLLOWING THREE OPTIONS FOR INCLUSION IN THE AGRICULTURAL DEED RESTRICTION. OPTIONS 2 AND 3 REQUIRE SADC APPROVAL PRIOR TO USE OF THE TEMPLATE IN CONNECTION WITH ANY CLUSTER DEVELOPMENT PROJECT.)**

OPTION 1: ...so long as the total number of housing units constructed does not exceed a gross density of one dwelling unit per 50 acres, including existing residential dwelling units identified in paragraph 15, above; or

OPTION 2: ...so long as the total number of housing units constructed does not exceed a gross density of _____ dwelling unit per _____ acres, including residential dwelling units identified in paragraph 15, above; **(MUNICIPALITY TO INSERT VALUES)**; or

OPTION 3: ...pursuant to *[Municipal Form]* Ordinance **(INSERT ORDINANCE**

REFERENCE), dated **(INSERT DATE OF ORDINANCE EXISTING AT THE TIME OF SADC TEMPLATE APPROVAL)**. Any future amendments to the ordinance that have the effect of increasing future housing opportunities beyond those set forth in Ordinance **(INSERT ORDINANCE REFERENCE)** shall not be valid for purposes of this Agricultural Easement unless and until they are approved by the State Agriculture Development Committee.

For the purpose of this Agricultural Deed Restriction:

"Limited additional future housing opportunities that directly support the property's agricultural operations and are appropriate to the scale of the preserved farmland", means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

17. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee. If Grantee grants approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and
- ii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Agricultural Deed Restriction but only with the approval of the Grantee.
- iii. To construct limited additional future housing opportunities subject to the requirements set forth in Paragraph 16 above. **(IF APPLICABLE)**

18. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Paragraph 2 of this Agricultural Deed Restriction. However, no division of the land shall be permitted.

OR

18. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Paragraph 2 of this Agricultural Deed Restriction. Division of the Premises is prohibited unless the _____ *[Municipal Form]* Planning Board, in consultation with the _____ Agricultural Advisory Committee, if applicable, determines that the division is for an agricultural purpose and results in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Agricultural Deed Restriction.

(SEE FOLLOWING THREE OPTIONS FOR INCLUSION IN THE AGRICULTURAL DEED RESTRICTION. OPTIONS 2 AND 3 REQUIRE SADC APPROVAL PRIOR TO USE OF THE TEMPLATE IN CONNECTION WITH ANY CLUSTER DEVELOPMENT PROJECT.)

- i. For purposes of this Agricultural Deed Restriction, "Agriculturally viable parcels" means...

OPTION 1: ...the total number of divisions that may be permitted may not exceed one division for each 50 acres of the Premises as it exists on the effective date of this Agricultural Deed Restriction and all such divisions shall result in parcels containing a minimum of 25 acres capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural

output; or

OPTION 2: ...the total number of divisions that may be permitted may not exceed one division for each ___ acres of the Premises as it exists on the effective date of this Agricultural Deed Restriction and all such divisions shall result in parcels containing a minimum of ___ acres capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output; **(MUNICIPALITY TO INSERT VALUES);** or

OPTION 3: ...the total number of divisions that may be permitted on the Premises may not exceed the gross density permitted by [*Municipal Form*] Ordinance **(insert ordinance reference)**, dated **(insert date of ordinance existing at the time of SADC template approval)**. Any future amendments to the ordinance that have the effect of increasing future division opportunities beyond those set forth in Ordinance **(insert ordinance reference)**, shall not be valid for purposes of this Agricultural Easement unless and until they are approved by the State Agriculture Development Committee.

- ii. The requirements of this section do not obviate the need for any additional approvals to effectuate the division.

19. In the event of any violation of the terms and conditions of this Agricultural Deed Restriction, Grantee, the State of New Jersey or, if authorized by municipal ordinance, another public agency or non-profit conservation organization pursuant to N.J.S.A. 40:55D-39.1f., may institute any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee, the State of New Jersey or _____ does not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Agricultural Deed Restriction by a prior failure to act.

20. This Agricultural Deed Restriction imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Agricultural Deed Restriction.

21. This Agricultural Deed Restriction is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

22. Throughout this Agricultural Deed Restriction, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

23. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

24. Wherever in this Agricultural Deed Restriction any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

25. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein.

26. This Agricultural Deed Restriction may be assigned, provided advanced written approval is obtained from the State Agriculture Development Committee, to the federal government, the State, a county, or a qualifying tax exempt nonprofit organization.

The Grantor signs this Agricultural Deed Restriction as of the date of the top of the first page. If the Grantor is a corporation, this Agricultural Deed Restriction is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

_____(L.S.)

_____(L.S.)

Secretary

(Corporate Seal)

(For use by corporations only)

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this AGRICULTURAL DEED RESTRICTION;
- (b) signed, sealed and delivered this AGRICULTURAL DEED RESTRICTION as his or her act and deed;
- (c) made this AGRICULTURAL DEED RESTRICTION for and in consideration of mutual obligations and benefits to each party.

Print name and title below signature

(CORPORATE ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____ 20____, the subscriber(s) _____, personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary of _____, the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness..

Sworn to and subscribed before me, the date aforesaid

Print name and title below signature

(LIMITED LIABILITY COMPANY ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____, the subscriber(s) _____ personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) are the managing member(s) of _____, the Limited Liability Company named in the within Agricultural Deed Restriction;
- (b) are the managing members of said company;
- (c) that the execution, as well as the making of this Agricultural Deed Restriction, have been duly authorized by the Operating Agreement of the said Company, that said Agricultural Deed Restriction was signed and delivered by _____, as and for the

voluntary act and deed of said Company.

Print name and title below signature

([Municipal Form])

THE UNDERSIGNED, being _____ of the _____ [Municipal Form], hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20_____.

Print name and title below signature
_____ [Municipal Form]

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and acknowledged under oath, to my satisfaction that this person:

- (a) is named in and personally signed this Agricultural Deed Restriction;
- (b) signed, sealed and delivered this Agricultural Deed Restriction as the [Municipal Form]'s act and deed; and
- (c) Is the Administrator / Clerk of _____ [Municipal Form].

Signed and sworn to before me on _____,

Print name and title below signature
_____ [Municipal Form]