



2022 00004059

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RESTRICTION AGREEMENT

This Restriction Agreement (the “**Agreement**”) is made as of this ¹⁵ day of June, 2022, by and between Robert M. McCarron, Trustee of MARC Merry Farm Road Trust, u/d/t dated November 10, 2015 and recorded with the Dukes County Registry of Deeds (the “**Registry**”) in Book 1398, Page 202 (the “**Trust**”) and Merry Farm LLC, a Massachusetts limited liability company (the “**LLC**”).

RECITALS

Whereas, the Trust is the owner of the real property located 138, 140 and 155 Merry Farm Road, West Tisbury, Dukes County, Massachusetts as more particularly described in a deed of Susan E. Trees dated February 8, 2016 and recorded with the Registry in Book 1398, Page 207 (the “**Property**”); and

Whereas, in contemplation of the sale of the Property to the LLC or its nominee and as a condition of said sale, the Trust desires and the LLC has agreed to impose certain restrictions upon that part of the Property more particularly described as Lot 2 on a plan entitled “Plan of Land in West Tisbury, Mass. Surveyed for Jeffrey DuBard May 25, 2022 Scale 1” = 80”” by Vineyard Land Surveying & Engineering and recorded with the Registry in Plan Book 19, Page 129 (the “**Plan**”), and containing 8.81 acres more or less according to the Plan (the “**Burdened Premises**”); and

Whereas, the restrictions contained herein below (the “**Restrictions**”) are intended to be for the benefit of (i) Joshua L. Steiner, individually, and the Trust, which in their capacities as private parties benefiting from the Restrictions may be referred to as the “**Benefited Parties**”; and (ii) for the real property now or formerly owned by the Trust and shown as Lot 1 on the Plan and Lot No. 1-A shown on a plan of land entitled “Plan of Land in West Tisbury, Mass. Surveyed for Douglas A. & Joyce S. Cabral, September 8, 1984, scale 1 in. = 100 ft., Vineyard Land Surveying, Box 1548, Norton Ave., Vineyard Haven, MA 02568, Revised – Sept. 13, 1984, Being a subdivision of Lot 1 ‘Hilltop Farm’”, filed with the Registry as West Tisbury Case File No. 274, to which plan reference is hereby made for a more particular description (collectively, the “**Benefited Properties**”); and

Whereas, in furtherance of the Trust’s and the LLC’s intent to effect the Restrictions, the Restrictions shall remain in full force and effect irrespective of the doctrine of merger and may only be modified or amended by all of the Benefited Parties and all of the owners of the Benefited Properties.

Now therefore, in consideration of the recitals set forth above and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Trust hereby imposes the following restrictions to and for the benefit of the Benefitted Parties and the Benefitted Properties:

1. At least 3.99 contiguous acres of the Burdened Premises which shall abut Lot 1 on the Plan shall be used only for conservation or agriculture or passive recreational purposes and shall not contain any structures or improvements except for fencing as may be necessary for agricultural purposes (the **"Open Space Area"**).
2. That part of the Burdened Premises outside of the Open Space Area shall only be used for residential and agricultural infrastructure purposes, with the number of "dwellings", as that term ("dwelling") may be then defined or contemplated under the West Tisbury Zoning By-laws, at the Burdened Property shall not exceed six (6). Each dwelling shall be within structures existing as of the date hereof or additions thereto, as the same may be renovated, restored or improved. Existing structures shall not be demolished and/or replaced to accommodate new or additional dwellings without the prior consent of the Benefitted Parties, which consent shall not be unreasonably withheld.
3. At least one dwelling will be restricted to use as a primary residence (not rented by the resident to third parties for short term or seasonal use) by persons aged fifty-five years or older.
4. The main house (being the westerly most structure labelled "Existing Dwelling" on the Plan) may be rented at fair market value rates and terms each year during the high season beginning Memorial Day weekend and ending Labor Day weekend, but otherwise shall be available to one or more families for the remainder of the year at a rental rate which shall not exceed 140% of median rents for Dukes County as calculated and adjusted for the tenant's household size from time to time by HUD.
5. All remaining dwelling units at the Premises will be restricted to use as a primary residence (not rented by the resident to third parties for short term or seasonal use) by persons earning not more than 140% of the median household income for Dukes County as calculated and adjusted for household size from time to time by HUD..

To further assure the perpetual enforceability of the foregoing restrictions contained in this Restriction Agreement, each of the restrictions set forth above (the **"Restrictions"**) shall be made permit conditions in any special or comprehensive permit obtained for the Burdened Premises. The Benefitted Parties shall have the right to review and approve all permit conditions required hereunder to be offered by the owner of the Burdened Premises to the

permit granting authority prior to such application being made, which approval shall not be unreasonably withheld.


The Trust and the LLC intend that Joshua L. Steiner be and hereby is a third party beneficiary of this Agreement with full right and authority to extend and enforce the Restrictions contained herein.

In the event that any one or more of the Restrictions shall for any reason be held to be invalid, illegal or unenforceable to any extent, such invalidity, illegality or unenforceability shall not affect any other restriction contained herein (or the restriction in question to the extent not invalid, illegal or unenforceable).

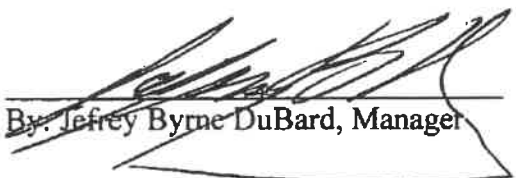
To the extent that any Restrictions are deemed to constitute restrictions subject to the limiting provisions of M.G.L. Chapter 184, Sections 26 through 30, then all such restrictions shall be binding upon the grantors and grantee for a term of one hundred fifty (150) years from the date of recording hereof and shall remain in full force and effect in accordance with the provisions of M.G.L. Chapter 184, Section 27, as it may be amended from time to time, or as provided in similar successor provisions, which provision of M.G.L. Chapter 184, Section 27 permit the extension of the period of enforceability of said restrictions by the recording of an extension in accordance with the provisions of said law before the expiration of the first thirty (30) years from the date of recording hereof, and before the expiration of each succeeding twenty (20) year period thereafter, or for such other maximum further periods of time as may be allowed by any amendments of said law or by any successor provisions.

Executed as a sealed instrument on this 15th day of June, 2022.

Merry Farm LLC



Robert M. McCarron,
Trustee as aforesaid




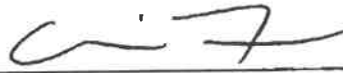
By: Jeffrey Byrne DuBard, Manager

COMMONWEALTH OF MASSACHUSETTS

County of Dukes, ss

On this 15 day of June, 2022, before me, the undersigned notary public, personally appeared Robert M. McCarron, proved to me through satisfactory evidence of identification of the principal, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and as Trustee as aforesaid acknowledged to me that he signed it voluntarily as his free act and deed for its stated purpose

 **CAROLINE R. FLANDERS**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
November 11, 2022




Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Dukes, ss

On this 15 day of June, 2022, before me, the undersigned notary public, personally appeared Jeffrey Byrne DuBard, proved to me through satisfactory evidence of identification of the principal, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and as Manager of the Merry Farm LLC acknowledged to me that he signed it voluntarily as his free act and deed for its stated purpose

 **CAROLINE R. FLANDERS**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
November 11, 2022



Notary Public
My commission expires:

ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds

EXHIBIT A

Plan of Land in
West Tisbury, Mass.
Surveyed for
Jeffrey DuBard
May 25, 2022 Scale 1" = 80'

W VINEYARD LAND SURVEYING & ENGINEERING
10 Cowardin Drive
PO Box 201
West Tisbury, MA 01983
508/339-2212 (cell) 508/339-2213 (fax)

Being a division of Attestor Map 3 Parcel 22 and 27.13

Over Reference:
Shed 630 Rays 635 and 636

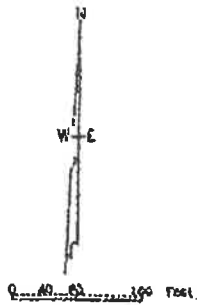
Plan Reference:
West Tisbury Deed Files 101, 274, 308, 345, 370, & 382

Zoning (Zoning Bd)
Minimum lot area = 3 acres
Minimum coverage = 100 ft.
Setbacks = 30 ft. on all sides

Lot 1 and 2 in this plan meet the requirements of a "Rural Lot"
(See West Tisbury Zoning Bylaw Section 4.3-3(b))

This plan shows a re-configuration of the lot line between lot 1-4
of 345 (Attest. No. 0-22) and lot 1-1 of 370 (Attest. No.
0-22-13).

This plan does not create any easement lots.



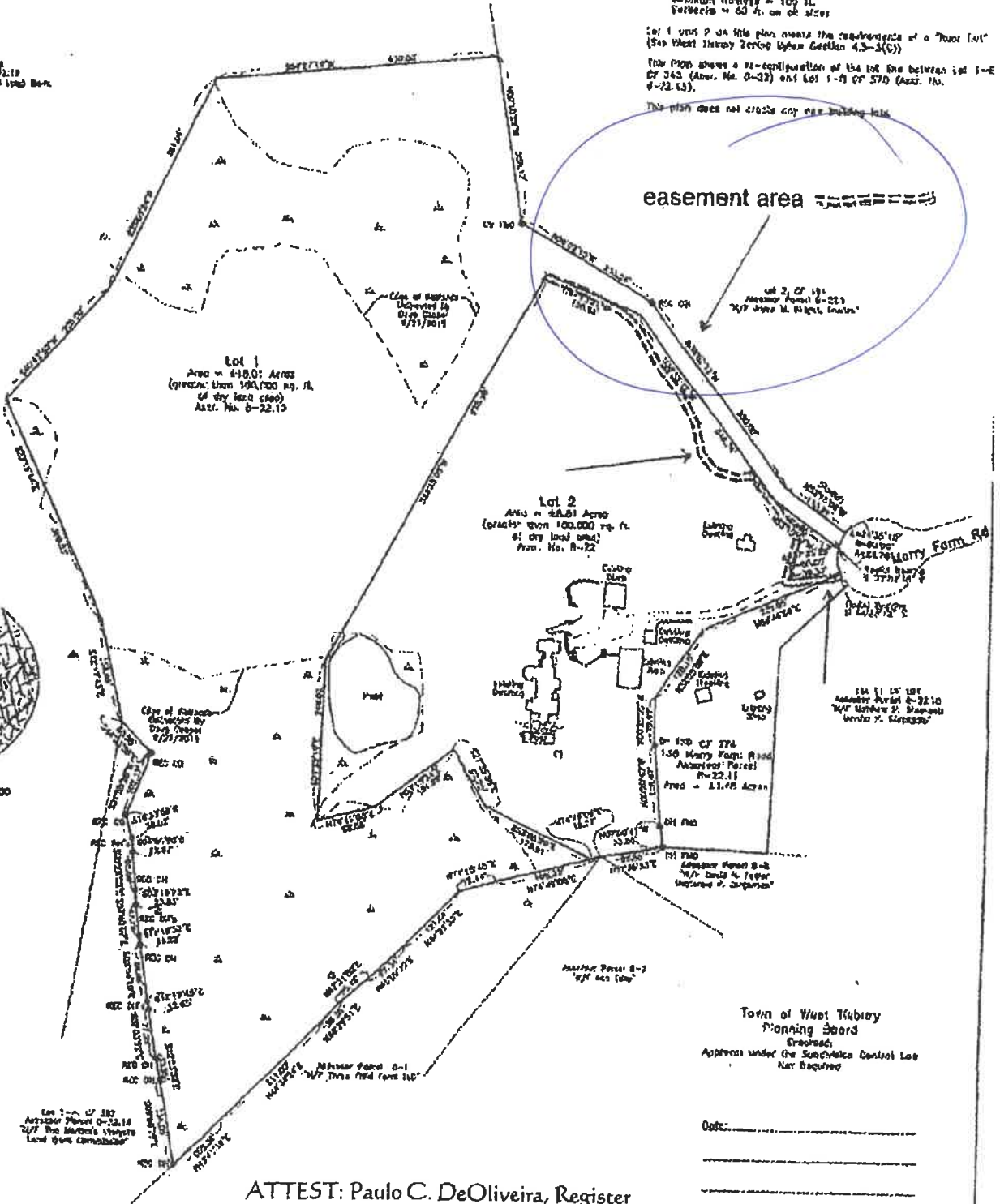
Lot 1-4 of 878
Attestor Parcel 0-22-13
W/T The Village Vineyard Land Bank
Development



Location Map Scale 1:10,000

Attestor Parcel 0-22-12
W/T The Village Vineyard
Land Bank Development

Lot 1-4 of 382
Attestor Parcel 0-22-14
W/T The Village Vineyard
Land Bank Development



ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds

Date: _____

