

1                   **KING COUNTY AGRICULTURAL CONSERVATION EASEMENT:**

2  
3                                   **DEED AND AGREEMENT RELATING TO**  
4                                   **DEVELOPMENT RIGHTS**

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7           **THIS DEED AND AGREEMENT RELATING TO DEVELOPMENT RIGHTS** entered  
8 into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, **BY AND BETWEEN (Enter name(s) of**  
9 **Grantor(s))** hereinafter referred to as “Grantor(s),” **AND KING COUNTY, a political**  
10 **subdivision of the State of Washington** hereinafter referred to as {“Local”} “Grantee” **{Insert if**  
11 **the United States is a Grantee:** and the **United States of America**, acting by and through the  
12 United States Department of Agriculture, Natural Resources Conservation Service, on behalf of  
13 the Commodity Credit Corporation, hereinafter referred to as the “United States”. }

14  
15 **[Insert THIRD PARTY BENEFICIARIES, as appropriate:** Each of the following third party  
16 beneficiaries (collectively the “Beneficiaries” and individually the “Beneficiary”) has certain  
17 rights hereunder, including third party rights of enforcement: The State of Washington, by and  
18 through the Recreation and Conservation Office (“RCO”); **and/or** the United States of America,  
19 acting by and through the United States Department of Agriculture, Natural Resources  
20 Conservation Service on behalf of the Commodity Credit Corporation, hereinafter referred to as  
21 the “United States.”]

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23           **WHEREAS:**

24           The Grantors are the present owners of the lands described in Exhibit A (the “Protected  
25 Property”) and graphically depicted in the Site Plan (Exhibit B); said Protected Property includes  
26 Water Rights as described in Exhibit C; all of which exhibits are attached hereto and incorporated  
27 herein by reference.

28           King County and the Grantors **[Insert as appropriate:** and the State of Washington **and/or**  
29 the United States **has/have]** mutual interests in preventing the conversion of agricultural lands to  
30 non-agricultural uses and it is the purpose of this Deed and Agreement Relating to  
31 Development Rights (“Deed and Agreement” also sometimes referred to herein as “Conservation  
32 Easement”) to protect the prime farmland soils and to retain the agricultural viability of the  
33 Protected Property.

34           The Grantors recognize that the Protected Property is Farm and Agricultural Land as defined in  
35 RCW 84.34.020(2) **[Omit if State funding is used:** or Farm and Agricultural Conservation Land  
36 as defined in RCW 84.34.020(8)] and that it possesses agricultural soils as well as having other  
37 characteristics, referred to herein as “Conservation Values”, that make it very suitable for the  
38 commercial production of agricultural products. The Protected Property also contributes natural,  
39 open space, ecological, habitat, and scenic values, referred to herein as “Open Space Values”,  
40 which are of importance to the Grantors, the Grantee{s}, **[Insert as appropriate:** the people of the  
41 State of Washington] and the citizens of King County.

42           The Grantors desire to cooperate with the Grantee{s} **[Insert as appropriate:** and the  
43 Beneficiary/Beneficiaries] in preserving land devoted to agricultural and open space uses. The  
44 characteristics of the Protected Property are documented in an inventory of relevant features of the  
45 Protected Property, dated \_\_\_\_\_, 20\_\_ and located in a file entitled Baseline

46 Documentation on file at the offices of the {Local} Grantee and incorporated herein by this  
47 reference. The Baseline Documentation consists of reports, maps, photographs, surveys of known  
48 cultural sites and other documentation that provide, collectively, an accurate representation of the  
49 Protected Property as of the date of this Deed and Agreement and which are intended to serve as an  
50 objective information baseline for monitoring compliance with the terms of this Deed and  
51 Agreement.

52 The Grantors are willing to grant and convey to the {Local}Grantee **[Omit if United States is**  
53 **not a Grantee:** and the United States] the Development Rights in the Protected Property as such  
54 rights are defined in King County Ordinance No. 4341 (said rights being the interest in and the right  
55 to use and subdivide land for any and all residential, commercial, and industrial purposes and  
56 activities which are not incident to agricultural and open space uses), on the terms and conditions  
57 and for the purposes hereinafter set forth. The Grantee{s} is {are} willing to purchase the  
58 Development Rights in the Protected Property and accept this instrument of conveyance.

59 The {Local} Grantee has determined that the acquisition by the {Local} Grantee of Development  
60 Rights in Farmland and Open Space Land will benefit the public through the preservation of  
61 property devoted to agricultural and open space uses.

62 **[Insert if State funding is used:** Permanent protection of the Protected Property will further  
63 the purposes of the Washington State Farmlands Preservation Account (FPA) established under  
64 RCW 79A.15.130(1), which provides that moneys appropriated to the FPA “must be distributed  
65 for the acquisition and preservation of farmlands in order to maintain the opportunity for  
66 agricultural activity upon these lands.” The legislatively declared policies of the State of  
67 Washington in the Washington State Open Space Tax Act, Chapter 84.34 RCW (OSTA), provide  
68 that “it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue  
69 in existence adequate open space lands for the production of food, fiber and forest crops, and to  
70 assure the use and enjoyment of natural resources and scenic beauty for the economic and social  
71 well being of the state and its citizens.” Under the OSTA, lands eligible for preferential real  
72 property tax treatment include lands such as the subject Protected Property where the  
73 preservation in its present use would conserve and enhance natural resources and promote  
74 conservation of soils. Pursuant to this legislative directive, King County has adopted an Open  
75 Space Tax Program, Ordinance No.1076, as amended, that recognizes the importance of and  
76 provides preferential tax treatment for the production of food and fiber crops, and to assure the  
77 use and enjoyment of natural resources and scenic beauty for the economic and social well-being  
78 of the county and its citizens.]

79 **[Insert if State funding is used:** These Development Rights are acquired in part with a grant  
80 from RCO pursuant to that certain grant agreement **[insert grant agreement number]** between  
81 RCO and {Local} Grantee dated \_\_\_\_\_ (“RCO Grant Agreement”).]

82 **[Insert if federal funding is used:** Part of the funds for the purchase of these Development  
83 Rights is being provided by the Farm and Ranch Lands Protection Program (FRPP), 16 USC 3838h  
84 and 3838i. Under the FRPP, the Secretary of Agriculture acting through the Natural Resources  
85 Conservation Service (NRCS), on behalf of the Commodity Credit Corporation, purchases  
86 Conservation Easements and other interests in land on behalf of the United States for the purpose of  
87 protecting topsoil from conversion to non-agricultural uses.]

88 The grant and conveyance of Development Rights by the Grantors to the Grantee{s} will  
89 preserve the Protected Property for activities consistent with agricultural and open space uses in  
90 perpetuity in accordance with the specific terms and conditions hereinafter set forth.

91 Grantor and Grantee{s} have agreed that, in order to maintain the opportunity for the commercial

92 production of agricultural products upon the Protected Property and to protect the Open Space  
93 Values of the Protected Property, the Development Rights that are granted and conveyed in this  
94 Deed and Agreement include the right to enforce the use of any and all water rights appurtenant to  
95 the Protected Property (Water Rights). This term, Water Rights, includes any and all of the rights  
96 associated with the historical and beneficial use of any of the embankments, flumes, head gates,  
97 measuring devices or any other structures that are appurtenant to those Water Rights, together with  
98 all easements and rights of way therefore. The Water Rights are bound by and permanently subject  
99 to the covenants, terms and conditions contained in this Deed and Agreement.

100 The conveyance and preservation of the Development Rights by the Grantors to the Grantee{s}  
101 furthers the objectives of the King County Comprehensive Plan to ensure the conservation and  
102 productive use of the County's natural resource lands and is responsive to the Washington State  
103 Growth Management Act as it serves to retain open space, encourages the conservation of  
104 productive agricultural lands, discourages incompatible uses of these lands and maintains and  
105 enhances natural resource-based industries occurring thereon.

106  
107 **NOW THEREFORE WITNESSETH**, that the Grantors, for and in consideration of  
108 \_\_\_\_\_ **DOLLARS** lawful money of the United States of America, paid  
109 to the Grantors by the Grantee{s}, the receipt whereof is hereby acknowledged, and the Grantors  
110 being therewith fully satisfied, do by these presents grant, bargain, sell, transfer and convey unto the  
111 Grantee{s} forever all Development Rights in respect to the Protected Property in order to carry-out  
112 the aforementioned purposes, subject only to those defects and/or encumbrances (if any) identified  
113 on Exhibit D (collectively, "Permitted Exceptions"), hereby perpetually binding the Protected  
114 Property to the restrictions limiting permitted activities to agricultural and open space uses as  
115 specifically delineated in the covenants, terms, and conditions contained herein, and do also grant  
116 such interests, rights and easements, make such covenants, and subject the Protected Property to  
117 such servitudes as are necessary to bind the Protected Property in perpetuity to such restrictions.  
118 This conveyance is a conveyance of an interest in real property under the provisions of RCW  
119 64.04.130.

120 The Grantors and Grantee{s} hereby agree that the Protected Property shall be bound by and  
121 permanently subject to the following restrictive covenants, terms, and conditions. None of these  
122 covenants, terms, and conditions shall be construed as allowing a use that is not otherwise  
123 permitted by applicable state and local laws, codes, standards, and ordinances. Grantor shall  
124 conduct all reserved and permitted uses and activities under this Deed and Agreement so as to meet  
125 all requirements of federal, state and local statutes, rules, and regulations as they may be amended  
126 from time to time.

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129 **RESTRICTIONS ON USE OF THE PROTECTED PROPERTY**

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131 **I. Uses Restricted to Agricultural and Open Space Uses; Agricultural and Open Space**  
132 **Uses Defined.**

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134 Use of the Protected Property is permanently restricted to solely agricultural and open space  
135 uses. The Grantee{s} strongly encourages (use singular if United States is a Grantee) the  
136 Grantor to farm the Protected Property or to lease the Protected Property for farming. Such  
137 uses shall be carried out in accordance with applicable law and in compliance with the

138 purpose and terms of this Deed and Agreement.  
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140 The Protected Property must be managed or farmed under a Farm Management Plan, also  
141 sometimes referred to herein as a “Conservation Plan”, as it exists as of the date of this  
142 agricultural conservation easement and as may be amended or revised in the future. Said  
143 Farm Management Plan is as defined in King County Administrative Rule PUT 8-21 (PR),  
144 or its successor, and approved by an agency or agencies designated by {Local} Grantee, by  
145 which the Protected Property is maintained in a condition capable of supporting current  
146 and/or future commercially viable agriculture. A copy of the Farm Management Plan shall  
147 be kept on file at the offices of the Grantee, specifically the office that houses the King  
148 County Farmland Preservation Program.  
149

150 A. “Agricultural uses,” as used herein, means:

- 151 (1) The growing, raising, and production of horticultural and agricultural crops,  
152 including, but not limited to, vegetables, berries, other fruits, cereal grains,  
153 herbs, hay and the processing and marketing, for consumption off-premises, of  
154 such crops and products. Although intended to support agricultural activity on  
155 the Protected Property, such processing and marketing may include agricultural  
156 crops from other properties provided such activity serves to maintain the  
157 economic viability of agricultural operations on other farmlands in King County  
158 and provided that the amount of such activity is approved in writing by the  
159 {Local} Grantee **[Insert if State funding is used:** and by the State of  
160 Washington, by and through the RCO]. On-premises tasting and sampling of  
161 horticultural and agricultural crops is permitted if necessary for the performance  
162 of processing and marketing activities that are otherwise allowed herein.  
163 (2) All forms of animal husbandry, including the processing and marketing for off-  
164 premises consumption, of the animals or their products. Although intended to  
165 support agricultural activity on the Protected Property, such processing and  
166 marketing may include animal products from other properties provided such  
167 activity serves to maintain the economic viability of agricultural operations on  
168 other farmlands in King County and provided that the amount of such activity is  
169 approved in writing by the {Local} Grantee **[Insert if State funding is used:**  
170 and by the State of Washington, by and through the RCO]. On-premises tasting  
171 and sampling of animals or their products is permitted if necessary for the  
172 performance of processing and marketing activities that are otherwise allowed  
173 herein.  
174 (3) Uses that are consistent with the classification as “Farm and Agricultural Land”  
175 as defined in RCW 84.34.020(2).  
176 (4) Agricultural uses do not include the primary use of the Protected Property as a  
177 site for processing and/or marketing agricultural crops and animal products as  
178 these activities must be secondary to the use of the Protected Property for the  
179 growing, raising, and production of horticultural and agricultural crops and/or all  
180 forms of animal husbandry.  
181 (5) Infrastructure and facilities, such as manure digesters or wind turbines, that  
182 support and/or enhance the agricultural use of the Protected Property, are  
183 permitted, provided that the predominate use of the property and the majority of

184 its area that is suitable for agricultural production is used for the growing or  
185 raising of agricultural crops and/or animal products. Infrastructure and facilities,  
186 such as manure digesters, that utilize agricultural products, must use products  
187 that are produced on-site, but may combine those products with products or  
188 materials produced off-site, provided that such activity is approved in writing by  
189 the {Local} Grantee[**Insert if State funding is used:** and by the State of  
190 Washington, by and through the RCO]. It is the intent of this provision to  
191 promote the economic viability of agricultural operations on the Protected  
192 Property and on other farmlands in King County.  
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194 B. "Open space uses," as used herein, means:

- 195 (1) Agricultural uses as defined above;
- 196 (2) Non-agricultural uses that conserve and enhance natural, scenic, or designated  
197 historic resources on the Protected Property and that do not permanently  
198 compact, remove, sterilize, pollute, or otherwise impair the use of the soil on the  
199 Protected Property for the raising of horticultural or agricultural crops.  
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201 Neither open space nor agricultural uses include the following: commercial and industrial  
202 activities that are unassociated with agriculture; the construction, habitation, or other use of  
203 a dwelling unit and/or farm worker housing, except to the extent such use is specifically  
204 reserved in this Deed and Agreement; placement, construction or expansion of buildings,  
205 structures or roads for non-agricultural uses; restaurants or other establishments primarily  
206 intended for the consumption of food or beverages; the construction or use of golf courses,  
207 parking lots unassociated with agricultural uses, zoos, kennels, catteries, athletic fields,  
208 campgrounds, or vehicle raceways or animal raceways other than those principally used for  
209 the exercise of animals grown, raised, or produced on the Protected Property. Agricultural  
210 and open space uses do not allow or include the conversion of Protected Property to fish or  
211 wildlife habitat, unless such conversion will directly benefit the agricultural use of the  
212 Protected Property as approved in writing by the {Local} Grantee [**Insert if State funding is**  
213 **used:** and by the State of Washington, by and through the RCO] or unless the area is  
214 designated in the Baseline Documentation as being available for such conversion. Open  
215 space uses may include trails for non-motorized use by the public.  
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## 217 **II. Dwelling Units**

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219 "Dwelling Unit," as used herein, means: A permanent or mobile structure designed and used for  
220 single-family residential occupancy.  
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- 222 A. **Reservation of Dwelling Unit(s).** The Grantors reserve the right to the use of (may be  
223 zero) single-family dwelling units(s). The location(s) of all reserved dwelling units, both  
224 those existing on the Protected Property at the date of this Deed and Agreement and  
225 those which are reserved but which do not exist on the Protected Property at the date of  
226 this Deed and Agreement, are shown on Exhibit B as the building envelope(s) within  
227 which the aforementioned reserved dwelling units must be located. Grantor may not  
228 change the location of any building envelope(s), as shown on Exhibit B, without the  
229 express written permission of the {Local} Grantee and of the Beneficiaries, if any.

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No more than the number of reserved dwelling units stated above and depicted on Exhibit B as of the date of this Deed and Agreement will be permitted, regardless of whether the Protected Property is subdivided or its boundaries are altered by the Grantor or by any successor in interest of the Grantor. If the Protected Property is subdivided, or its boundaries altered, reference to this Deed and Agreement must be shown on the map of the subdivided, or altered property and Exhibit B must be recorded as part of the subdivision or alteration so that any future conveyance or change in ownership of the Protected Property shall be explicitly subject to and governed by Exhibit B.

If a portion of the Protected Property is conveyed separate from the whole, the conveyance instrument shall state the number of reserved dwelling units that are allocated to that portion, and Exhibit B, showing the building envelope(s) within which the reserved dwelling units are or will be located, shall be attached to the conveyance instrument and recorded with it.

Failure to record Exhibit B upon subdivision, boundary alteration, or upon the conveyance of a portion of the Protected Property, shall not invalidate or otherwise affect the restriction of the total number of reserved dwelling units and their location(s) on the Protected Property.

**[If Grantor chooses to limit the size of the reserved dwelling units, insert the following wording:** The total living space square footage of any new or remodeled reserved dwelling unit shall not exceed square feet which is 150% of the median size of dwelling unit living space in King County’s Agricultural Production Districts, as determined by King County Assessor’s records, upon the date of this Deed and Agreement.]

Reserved dwelling units must be used for the sole purpose of accommodating the Grantors and their successors in interest to the Protected Property, the farm operator, or the families of such persons, or for accommodating on-farm agricultural employees of the owner or operator and their families. Reserved dwelling units cannot be leased to the public-at-large.

- B. “Accessory Dwelling Unit,” as used herein means: a separate, complete dwelling unit that is attached to or contained within the structure of a reserved dwelling unit or is contained within a separate structure that is accessory to and on the same legal lot as a reserved dwelling unit. The total living space square footage of an accessory dwelling unit shall not exceed 1,000 square feet unless the accessory dwelling unit is wholly contained within a basement or attic of a reserved dwelling unit. Only one accessory dwelling unit is permitted for each reserved dwelling unit. Property containing an accessory dwelling unit cannot be subdivided or conveyed separately from the property on which the reserved dwelling unit is located unless the accessory dwelling unit is removed prior to such action.

The use of accessory dwelling units shall be limited to the Grantors and their successors

276 in interest to the Protected Property, the farm operator, or the families of such persons,  
277 or for accommodating on-farm agricultural employees of the owner or operator and their  
278 families. Accessory dwelling units cannot be leased to the public-at-large.  
279

280 C. **“Agricultural Employee Dwelling Unit,”** as used herein means: a dwelling unit in  
281 which the total living space square footage does not exceed 1,000 square feet and which  
282 is used to house agricultural employees who are employed to work on the Protected  
283 Property. Such agricultural employee dwelling units are not included in the number of  
284 dwelling units reserved nor are they considered to be accessory dwelling units. If the  
285 primary use of the Protected Property changes to a non-agricultural use, all agricultural  
286 employee dwelling units shall be removed. Property containing agricultural employee  
287 dwelling units cannot be subdivided or conveyed separately from the rest of the  
288 Protected Property unless said structures are permanently removed prior to such action.  
289 Agricultural employee dwelling units may only be occupied by agricultural employees  
290 who are employed to work on the Protected Property.  
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292 The location(s) of accessory dwelling units and of agricultural employee dwelling units  
293 that exist on the Protected Property upon the date of this Deed and Agreement, are  
294 included within a building envelope as shown on Exhibit B.  
295

296 The Grantor must obtain written permission from the {Local} Grantee prior to the  
297 construction or installation of any accessory dwelling units or agricultural employee  
298 dwelling units not existing on the Protected Property upon the date of this Deed and  
299 Agreement. Nothing herein shall be deemed to waive the requirement to obtain any  
300 required permits from the agency of the appropriate government responsible for issuing  
301 development permits. New accessory dwelling units and/or agricultural employee  
302 dwelling units must be located within an existing building envelope. Any addition of  
303 accessory dwelling units and/or agricultural employee dwelling units shall be shown on  
304 an updated Site Plan which has been approved in writing by the {Local} Grantee and  
305 which shall be added to the Baseline Documentation on file at the offices of the {Local}  
306 Grantee.  
307

308 **III. Emergencies.** Grantor may undertake any activities that are necessary to protect health or  
309 safety or prevent significant property damage on the Protected Property or are required by and  
310 subject to compulsion of any governmental agency; provided, however, that Grantor shall first  
311 reasonably attempt to notify {Local} Grantee prior to taking such action. If {Local} Grantee  
312 cannot provide consent, with or without conditions, within such time as is reasonable under  
313 the circumstances, Grantor may proceed with such action without consent.  
314

315 **IV. Further Restriction on Use of the Protected Property.** Potential uses of the Protected  
316 Property are limited in that the Grantors, their heirs, successors, and assigns shall only be  
317 entitled to use, lease, maintain, or improve the Protected Property for agricultural and open  
318 space uses, and they shall comply with the following terms, conditions, restrictions, and  
319 covenants, which are permanently binding on the Protected Property:  
320

321 A. No subdivision of the Protected Property that reduces any parcel to less than 10 acres

322 **[As appropriate, replace with: 35 acres or, if federal funding is used replace with:**  
323 **\_\_\_\_\_** (insert number) acres, which is the average size of farms in King County as of the  
324 most recent published Census of Agriculture,] shall be permitted. *[Explanation for*  
325 *subdivision size if no federal funding is used: Parcels may not be subdivided or the*  
326 *minimum size of parcels created by any future subdivision will be restricted to 10 or 35*  
327 *acres depending on the location of the property; properties in the Lower Green, Upper*  
328 *Green and Sammamish River Valley Agricultural Production Districts (APDs) and*  
329 *those outside of APDs will be restricted to a minimum parcel size of 10 acres,*  
330 *properties in the Snoqualmie River Valley and Enumclaw Plateau APDs will be*  
331 *restricted to a minimum parcel size of 35 acres.]* The Grantor must obtain written  
332 permission from the {Local} Grantee and all Beneficiaries, if any, prior to initiating any  
333 subdivision or boundary line adjustment. All restrictions imposed by this Deed and  
334 Agreement shall survive any subdivision. A boundary line adjustment that combines the  
335 Protected Property, or any portion thereof, that is subject to this Deed and Agreement,  
336 with property on which the development rights have not been conveyed to King County,  
337 is prohibited. Subdivisions or boundary line adjustments which would result in any  
338 parcel exceeding the limit on non-tillable surface as specified in Section IV.B. of this  
339 Deed and Agreement are prohibited.  
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341 B. No more than a total of \_\_\_\_\_percent **[Insert maximum of 5, minimum of 2]** of the  
342 Protected Property or of any parcel thereof resulting from any future subdivision of the  
343 Protected Property, boundary line adjustment, or conveyance of a portion of the  
344 Protected Property, shall be covered by structures and/or non-tillable surfaces **[Insert as**  
345 **appropriate:** and no more than \_\_\_\_\_percent **[Insert maximum of 5, minimum of 2]**  
346 of Parcel(s)\_\_\_\_\_of the Protected Property or of any parcel thereof resulting from any  
347 future subdivision of the Protected Property, boundary line adjustment, or conveyance  
348 of a portion of the Protected Property, shall be covered by structures and/or non-tillable  
349 surfaces]. *[Explanation: Certain properties or specific parcels within a property may*  
350 *be restricted to less than 5 percent non-tillable surface.]* “Structures” shall include but  
351 are not limited to residences, barns, machine sheds, permanent greenhouses, associated  
352 structures, retail and processing facilities, surfaced parking areas, surfaced driveways,  
353 surfaced roadways, and surfaced pads. Temporary shelter for soil-dependent cultivation  
354 of horticultural or viticultural crops is not considered a structure. “Non-tillable  
355 surfaces” shall include but are not limited to asphalt, concrete, gravel, and any other  
356 cover material not normally associated with cultivation of the soil. Naturally-occurring  
357 non-tillable surfaces, such as rock out-crops or bodies of water, shall not be counted  
358 against the \_\_\_\_% non-tillable surface limitation. Non-tillable surfaces within public  
359 right-of-way or utility easements, that exist upon the date of this conveyance or which  
360 are approved in writing by the {Local} Grantee and the Third Party Beneficiaries, if any,  
361 subsequent to this Deed and Agreement, shall not be counted against the \_\_\_\_% non-  
362 tillable surface limitation. Prior to the creation of any non-tillable surface, the topsoil on  
363 the area so affected shall be removed and used elsewhere on the Protected Property; said  
364 requirement is subject to permitting restrictions. Should the amount of non-tillable  
365 surface on any parcel as of the date of this Deed and Agreement exceed \_\_\_\_\_percent  
366 **[Insert maximum of 5, minimum of 2]**, such parcel cannot be sold separately but must  
367 remain under the same ownership as other parcels of which the Protected Property is



368 comprised, said parcels being of sufficient size so that, collectively, their total non-  
369 tillable surface does not exceed \_\_\_\_\_percent [**Insert maximum of 5, minimum of 2**] of  
370 their total acreage.  
371

372 C. No mining, drilling, or extracting of oil, gas, gravel, or minerals on or under the  
373 Protected Property that breaks the surface of the Protected Property, shall be permitted.  
374 Temporary disruption of the Protected Property, not to exceed one acre in total, for the  
375 extraction of subsurface materials is permitted only if the extracted materials are used in  
376 connection with agricultural activities occurring on the Protected Property. No part of  
377 the surface of the Protected Property shall be used for storage or processing of gas, oil,  
378 or minerals taken from the Protected Property, other than storage for the private use of  
379 the occupants of the Protected Property.  
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381 D. No subsurface activities, including excavation for permitted underground utilities,  
382 pipelines, or other underground installations shall be allowed that cause permanent  
383 disruption of the surface of the Protected Property. Temporarily disrupted soil surfaces  
384 shall be restored in a manner consistent with agricultural uses, including restoration of  
385 the original soil horizon sequence, within one year of when the soils were initially  
386 disrupted. [**Insert as appropriate:** Notwithstanding anything in this Section to the  
387 contrary, Grantor shall comply with all applicable state and federal laws and shall  
388 give notice to and receive consent from {Local} Grantee, in writing, with respect to  
389 any alteration of the Protected Property that would have the effect of physically  
390 disturbing a known cultural site, a survey of which is included in the Baseline  
391 documentation and incorporated herein by this reference.]  
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393 E. No dumping or storage of solid or liquid waste, or of trash, rubbish, hazardous, or  
394 noxious materials shall be permitted. Hazardous materials include explosives,  
395 veterinary or medical wastes, radioactive wastes, chemical, biological or petroleum  
396 products that are not being used for agricultural purposes and which may pose a  
397 substantial present or potential hazard to humans, wildlife or the environment and  
398 which, either singularly or in combination, have toxic properties that may cause death,  
399 injury or illness or have mutagenic, teratogenic, or carcinogenic properties or are  
400 corrosive, explosive, flammable, or may generate pressure through decomposition or  
401 other means. However, the temporary storage of waste generated on the Protected  
402 Property is permitted so long as such storage is in compliance with all applicable laws.  
403 Temporary storage means storage for the duration of not more than one year.  
404 Composting of biodegradable materials for on-site application at agronomic rates is  
405 permitted, so long as the composting is done in accordance with all applicable laws.  
406 Production of compost for sale and/or off-site application must be predominately of  
407 biodegradable materials produced on the Protected Property or of biodegradable  
408 materials that have been used for agricultural purposes on the Protected Property, and in  
409 accordance with all applicable laws. Hazardous or noxious materials shall not include  
410 biosolids, herbicides, pesticides, rodenticides, insecticides, and fertilizers applied and  
411 maintained in accordance with federal, state and local law.  
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413 F. No activities that violate sound agricultural soil and water conservation management

414 practices shall be permitted.

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- G. No signs shall be erected on the Protected Property except for the following purposes:
  - (1) to state the name of the property and the name and address of the occupant;
  - (2) to advertise any use or activity consistent with the agricultural or open space uses as herein defined; or
  - (3) to advertise the property for sale or rent.
  
- H. Recreational uses of the Protected Property are limited to passive recreational open space uses such as hiking, fishing, horseback riding, in-season hunting and fishing and other forms of recreation that do not require site modification to accommodate motorized, mechanical or electronic accessories. All forms of developed recreation or recreation that adversely impacts the conservation purposes of this Deed and Agreement are prohibited.
  
- I. In order to maintain the ability of the Protected Property to support commercial agricultural production, the Grantor shall cooperate with the {Local} Grantee to help assure the maintenance of the Water Rights. Grantor shall retain all Water Rights necessary for present or future agricultural production on the Protected Property and shall not transfer, encumber, lease, sell, abandon, relinquish or otherwise separate, by action or inaction, such quantity of Water Rights from title to the Protected Property. Grantor shall take affirmative actions to avoid such abandonment, relinquishment, loss or forfeiture, including but not limited to the following:
  - (1) Exercising the Water Rights by putting them to any beneficial use that is not inconsistent with the terms of this Deed and Agreement in accordance with Chapter 90.14 RCW;
  - (2) Seeking to place or enroll the Water Rights in the Washington State trust water rights program on a temporary basis, provided that any acquisition of the Water Rights by the State shall be expressly conditioned to limit its use to instream purposes and its duration to a term no longer than 10 years; or
  - (3) Seeking to lease the Water Rights for use on land other than the Protected Property for a term no longer than 10 years, with prior written notice to and consent of the {Local} Grantee, after obtaining approval in accordance with RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100 for a temporary transfer or change of the Water Rights; provided, however, that any such lease shall require the lessee to make beneficial use of the Water Rights in accordance with Chapter 90.14 RCW and for agricultural purposes only (collectively, “Water Rights Maintenance Actions.”) If Grantor is unable to take the Water Rights Maintenance Actions and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey ownership of said Water Rights to {Local} Grantee for {Local} Grantee’s use in order to maintain the opportunity for commercial agricultural production on the Protected Property.

If Protected Property possessing divisible Water Rights is subdivided, a Water Right of sufficient quantity to support any present or future economically viable agricultural practice must be allocated to each parcel created by the subdivision. Any

460 relinquishment, loss or forfeiture of the Water Rights shall not be deemed or construed  
461 to be a waiver of {Local} Grantee’s rights under this Deed and Agreement or to defeat  
462 the purpose of the Deed and Agreement, and shall not otherwise impair the validity of  
463 this Deed and Agreement or limit its enforceability in any way.  
464

465 I. Unless otherwise prohibited by law, trees may be cut to control insects and disease,  
466 prevent personal injury and property damage, obtain wood for personal use, construct  
467 fences as permitted herein, and, with advance written permission of {Local} Grantee,  
468 maintain grasslands. Except for trees produced as agricultural products, any  
469 commercial harvesting of trees shall be conducted in accordance with a King County  
470 approved forest stewardship plan prepared by a professional forester and in accordance  
471 with state and local regulations. This provision shall not be construed to allow uses  
472 otherwise inconsistent with agriculture and open space uses as defined herein.  
473

474 J. Existing fences may be repaired or replaced and new fences may be constructed for the  
475 purposes described in the Farm Management Plan referenced in this instrument.  
476

477 K. Ditches, drainage tiles, and other water conveyance and/or impoundment features may  
478 be lawfully installed, repaired and maintained to support and further enhance the  
479 agricultural purposes cited in this conveyance.  
480

481 L. Construction, installation or relocation of roads and of public or private utilities  
482 including communication services and alternative energy facilities over or under the  
483 Protected Property, that affect the suitability of the Protected Property for agricultural  
484 use, are prohibited, except to the extent necessary to serve the Protected Property and  
485 uses permitted by this Deed and Agreement or unless, as specified in Ordinance 4341,  
486 the King County Council has found it necessary to convey a road or utility easement for  
487 such construction, installation or relocation. **[Insert if State and/or federal funding is  
488 used: Should the King County Council find it necessary to convey a road or  
489 utility easement for which compensation is required, the compensation received  
490 will be distributed between/among the Grantor, Grantee(s) and all Beneficiaries,  
491 if any, according to the distribution method specified in this Deed and  
492 Agreement in the section titled “Condemnation.”]** Grantor may not convey any road  
493 or utility easements, including temporary easements, without the express written  
494 permission of the {Local} Grantee.  
495

496 M. Grantor shall not engage in any use or activity that causes or is likely to cause  
497 significant soil degradation or erosion or significant contamination or pollution of any  
498 soils or surface or substrate waters on the Protected Property.  
499

500 N. The creation, enhancement, restoration or preservation of wetlands, fish or wildlife  
501 habitat, or other natural resources for the purpose of, directly or indirectly,  
502 compensating for or mitigating resource losses or damages in any way associated with  
503 actual or potential impacts of development except for impacts caused by Grantor on the  
504 Protected Property (“Compensatory Mitigation”) is prohibited on the Protected  
505 Property. Compensatory Mitigation includes, but is not limited to, mitigation banking,

506 conservation banking, and any other sale or exchange of mitigation credits based on the  
507 creation, restoration, enhancement and/or preservation of such natural resources within  
508 the Protected Property.  
509

510 P. Home occupations or home industries, as defined in Chapter 21A.06 of the King County  
511 Code, or its successor, **[Insert if State funding is used:** which are consistent with the  
512 provisions of RCW 84.34.020(2)] and which are subordinate to the use of the Protected  
513 Property for agricultural purposes, are permitted, provided that:

- 514 (1) The home occupation or home industry must be consistent with the size, scale and  
515 intensity of the existing agricultural use of the Protected Property at the date of this  
516 Deed and Agreement and must maintain the primacy of and be subordinate to the  
517 use of the Protected Property for agricultural purposes; and
- 518 (2) The home industry or home occupation must adhere to the restrictions contained in  
519 this Deed and Agreement and in Chapter 21A.30 of the King County Code, or its  
520 successor; and
- 521 (3) The home industry or home occupation must be owned and operated by the property  
522 owner or the farm operator; and
- 523 (4) All activities associated with the home occupation or home industry must remain  
524 within the building envelope as depicted on the Site Plan (Exhibit B) which is  
525 attached to this Deed and Agreement; all structures and surfaces within the building  
526 envelope are subject to the limitation on non-tillable surfaces as is specified in  
527 Section IV.B. of this Deed and Agreement; and
- 528 (5) If the home industry is sited in a barn or other agricultural structure, the property  
529 owner must be able to provide verification that the home industry is subordinate to  
530 the use of the Protected Property as a farm; and
- 531 (6) No new structures or surfaces, to be used primarily for the operation of a home  
532 industry or home occupation, shall be constructed or installed on the Protected  
533 Property; and
- 534 (7) Should there be any discrepancy between the covenants and restrictions contained in  
535 this Deed and Agreement and the restrictions on home industries and occupations  
536 contained in the King County Code, the more restrictive of the two shall prevail.  
537

538 **V. Restriction on Use of the Protected Property to Satisfy Conservation and Open Space**  
539 **Requirements for Development or Use of Other Real Property.** Except as is otherwise  
540 provided below, in the event that an application is made at any time to a federal, state, or local  
541 governmental authority for permission to make use of any other real property including, but not  
542 limited to, real property that is contiguous to any of the Protected Property hereby restricted,  
543 which proposed use is conditioned by such government authority on the existence of a specified  
544 quantity of open space or other restrictions on development, the Protected Property shall not be  
545 used to contribute toward the satisfaction of any such open space requirement. This restriction  
546 shall not apply if the proposed use of the other real property is an agricultural or open space use,  
547 as defined herein.  
548  
549

#### 550 **ADDITIONAL COVENANTS AND AGREEMENTS**

551 The Grantors and Grantee{s} further agree as follows:

552 **Conservation Plan.** The Grantor, his/her heirs, successors, or assigns, shall maintain the Land  
553 and conduct all agricultural operations on the Land in a manner consistent with a Conservation  
554 Plan, also sometime referred to herein as a “Farm Management Plan”, prepared in consultation with  
555 the Natural Resources Conservation Service (NRCS) and which meets the approval standards of  
556 **[Insert if State funding is used:** the State of Washington, by and through the RCO and] any  
557 other agency or agencies as designated by the {Local} Grantee. This Conservation Plan shall be  
558 developed using the standards and specifications of the NRCS Field Office Technical Guide and 7  
559 CFR part 12 that are in effect on \_\_\_\_\_, 20\_. However, the Grantor may develop and  
560 implement a management plan that proposes a higher level of conservation and is consistent with  
561 the NRCS Field Office Technical Guide standards and specifications. The {Local} Grantee and the  
562 Beneficiaries, if any, shall have the right to enter upon the Protected Property, with advance notice  
563 to the Grantor, in order to monitor compliance with the Conservation Plan.

564 **[Insert if no federal funding is used:** In the event of noncompliance with the Conservation  
565 Plan, the Grantee shall work with the Grantor to explore methods of compliance and give the  
566 Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If  
567 the Grantor does not comply with the Conservation Plan, the Grantee shall take all reasonable  
568 steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal  
569 action) to secure compliance with the Conservation Plan.]

570 **[Insert if the United States is a Grantee or a Third Party Beneficiary:** In the event of  
571 noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore  
572 methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve  
573 months, to take corrective action. If the Grantor does not comply with the Conservation Plan,  
574 NRCS will inform {Local} Grantee of the Grantor’s noncompliance. The {Local} Grantee shall  
575 take all reasonable steps (including efforts at securing voluntary compliance and, if necessary,  
576 appropriate legal action) to secure compliance with the Conservation Plan following written  
577 notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-  
578 compliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such  
579 noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS  
580 regulations.

581 If the NRCS standards and specifications for highly erodible land are revised after the date of this  
582 Deed and Agreement based on an Act of Congress, NRCS will work cooperatively with the Grantor  
583 to develop and implement a revised Conservation Plan. The provisions of this section apply to the  
584 highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program  
585 and are not intended to affect any other natural resources conservation requirements to which the  
586 Grantor may be or become subject.]

587 **Covenant Against Encumbrances.** The Grantors covenant that they have not done or  
588 executed, or allowed to be done or executed, any act, deed, or thing whatsoever whereby the  
589 Development Rights hereby conveyed, or any part thereof, now or at any time hereafter, will or may  
590 be charged or encumbered in any manner or way whatsoever.

591 **Subsequent Liens.** No provisions of this Deed and Agreement should be construed as  
592 impairing the ability of The Grantor to use this Protected Property as collateral for a loan,  
593 provided that any mortgage or lien associated with the loan is subject to or subordinated to this  
594 Deed and Agreement.

595 **Responsibilities of Grantor and Grantee{s} Not Affected.** Other than as specified here, this  
596 Deed and Agreement is not intended to impose any legal or other responsibility on Grantee{s} or  
597 in any way affect any existing obligations of Grantor as the owner of the Protected Property.

598 **No Public Rights Conveyed by Deed and Agreement.** The parties acknowledge that, except  
599 as specifically provided herein, Grantor does not grant, expand or extend any rights to the general  
600 public through this Deed and Agreement, including without limitation, any rights of public  
601 access to on or across, or public use of, the Protected Property.

602 **Remedies.** {Local} Grantee has the right to enforce the terms of this Deed and Agreement and  
603 to prevent and correct or require correction of violations of the terms, conditions, restrictions and  
604 covenants of this Deed and Agreement. {Local} Grantee shall have the right to prevent, or cause  
605 Grantor to prevent, any use of, or activity on, the Protected Property that is inconsistent with the  
606 purpose and terms of this Deed and Agreement, including trespasses by members of the public, and  
607 shall have the right to undertake or cause to be undertaken the restoration of such areas or features  
608 of the Protected Property as may be materially damaged by activities contrary to the provisions  
609 hereof. After giving reasonable notice to the possessors of the Protected Property, the {Local}  
610 Grantee or its authorized representative shall have the right to enter from time to time onto the  
611 Protected Property and into structures located thereon for the sole purposes of inspection and  
612 enforcement of the terms, conditions, restrictions and covenants hereby imposed. In addition,  
613 {Local} Grantee shall have the right to enter upon the Protected Property, at a mutually agreeable  
614 date and time and upon prior notice to Grantor, to inspect the Protected Property after major natural  
615 events occur, such as fires, windstorms, and floods. {Local} Grantee shall exercise its access rights  
616 in compliance with applicable law and in a manner that will not materially disturb or interfere with  
617 Grantor's reserved rights, any other person's lawful use of the Protected Property, or Grantor's  
618 quiet enjoyment of the Protected Property.

619 If {Local} Grantee becomes aware of or finds a violation of this Deed and Agreement, {Local}  
620 Grantee may at its discretion take any and all appropriate legal action in law or equity and/or  
621 pursue administrative remedies under the King County Code (KCC) for violations arising under  
622 the provisions of the KCC. Upon discovery of a violation, {Local} Grantee shall notify Grantor  
623 in writing of the violation. Except when an ongoing or imminent violation could, as determined  
624 by {Local} Grantee, seriously impair the Conservation Values of the Protected Property, {Local}  
625 Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing  
626 any legal action, including any administrative activity under the KCC.

627 If Grantor fails to cure the violation within 30 days after receipt of a notice of violation,  
628 {Local} Grantee may (1) seek enforcement under the provisions of the KCC and/or (2) bring an  
629 action in court to enforce the terms of this Deed and Agreement, to enjoin the violation, and to  
630 require restoration of the Protected Property to the condition that existed prior to any such injury.

631 Grantor agrees that {Local} Grantee's remedies at law for any violation of the terms of this Deed  
632 and Agreement are inadequate and that {Local} Grantee shall be entitled to the injunctive relief  
633 described in this Section both prohibitive and mandatory, in addition to such other relief to which  
634 {Local} Grantee may be entitled, including specific performance of the terms of this Deed and  
635 Agreement, without the necessity of proving either actual damages or the inadequacy of  
636 otherwise available legal remedies. All such actions for injunctive relief may be taken without  
637 {Local} Grantee being required to post bond or provide other security. Where a court finds that a  
638 violation has occurred, Grantor shall reimburse {Local} Grantee for all its expenses incurred in  
639 halting and correcting the violation, including but not limited to actual costs of restoration, court  
640 costs, and reasonable attorney's fees. In as much as the actual damages to the Agricultural  
641 Conservation Value that could result from a breach of this Deed and Agreement by Grantor  
642 would be impractical or extremely difficult to measure, the Parties agree that the money damages  
643 {Local} Grantee is entitled to recover from Grantor shall be, at {Local} Grantee's election, the

644 higher of (i) the amount of economic gain realized by Grantor from violating the terms of the  
645 Deed and Agreement or (ii) the cost of restoring any Agricultural Conservation Values and/or  
646 open space values that have been damaged by such violation. In the event {Local} Grantee  
647 chooses the second of these two measures, Grantor agrees to allow {Local} Grantee, its agents or  
648 contractors, to enter upon the Protected Property and conduct restoration activities.

649 Enforcement of the terms of this Deed and Agreement shall be at the discretion of the {Local}  
650 Grantee, and any forbearance by {Local} Grantee to exercise its rights under this Deed and  
651 Agreement in the event of any breach of any terms of this Deed and Agreement by Grantor shall  
652 not be deemed or construed to be a waiver by {Local} Grantee of such term or of any of {Local}  
653 Grantee's rights under this Deed and Agreement. No delay or omission by {Local} Grantee in the  
654 exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or  
655 be construed as a waiver. Moreover, any failure by {Local} Grantee to discover a violation of this  
656 Deed and Agreement or forbearance by {Local} Grantee in exercising its rights under this Deed  
657 and Agreement in the event of any violation of its terms by Grantor shall not be deemed a waiver  
658 by {Local} Grantee of such rights with respect to any subsequent violation. No waiver or waivers  
659 by the {Local} Grantee, or by its successors or assigns, of any breach of a term, condition,  
660 restriction, or covenant contained herein shall be deemed a waiver of any subsequent breach of such  
661 term, condition, restriction or covenant or of any other term, condition, restriction, or covenant  
662 contained herein.

663 **No Alteration or Amendment.** The terms, conditions, restrictions, and covenants contained  
664 herein shall not be altered or amended unless such alteration or amendment shall be made with the  
665 written consent of the {Local} Grantee [**Insert as appropriate: the United States (if a Grantee or**  
666 **Third Party Beneficiary)**] and of [other] Beneficiaries, if any, or their successors or assigns, and  
667 any such alteration or amendment shall be consistent with the purposes of King County Ordinance  
668 No. 4341, as heretofore or hereafter amended. Any amendment to this Deed and Agreement shall  
669 be recorded in the official records of King County, Washington.

670 **Restrictions Binding on Successors and Third Parties.** The Grantors and Grantee{s} agree  
671 that the terms, conditions, restrictions, and covenants contained herein shall be binding upon the  
672 Grantors, their agents, personal representatives, heirs, assigns, and all other successors in interest to  
673 the Protected Property and possessors of the Protected Property, and shall be permanent terms,  
674 conditions, restrictions, covenants, servitudes, and easements running with and perpetually binding  
675 the Protected Property. Any interests in the Protected Property held or obtained by third parties  
676 shall be subordinate to the terms of this Deed and Agreement.

677 **Notice.** Certain provisions of this Deed and Agreement require Grantor to give notice to {Local}  
678 Grantee prior to undertaking certain uses and activities (e.g., Sections [**insert reference numbers**  
679 **of pertinent Sections**]) for the purpose of affording {Local} Grantee an opportunity to adequately  
680 ensure that the proposed use or activity is designed and implemented in a manner that is consistent  
681 with the purpose of this Deed and Agreement. Whenever such notice is required, and no other  
682 timeline for notice is set forth elsewhere in this Deed and Agreement, Grantor shall provide such  
683 notice in writing not less than ninety (90) days prior to the date Grantor intends to undertake the use  
684 or activity in question. The notice shall describe the proposed use or activity in sufficient detail to  
685 permit {Local} Grantee to make an informed judgment as to its consistency with the terms of the  
686 Deed and Agreement. [**Insert if there are Third Party Beneficiaries:** Upon receipt of such  
687 notice, {Local} Grantee shall forward a copy to each Beneficiary to this Deed and Agreement.]  
688 {Local} Grantee shall provide a written response to the notice in a timely manner.  
689 [**Insert if State funding is used: Consent by Third Party Beneficiary Required.** Wherever in

690 the Deed and Agreement {Local} Grantee’s consent is required, such consent is also required of the  
691 State of Washington, by and through the RCO as a Third Party Beneficiary to this Deed and  
692 Agreement. The RCO shall provide such consent in writing within a reasonable time.]

693 **Consent Not Unreasonably Withheld.** Wherever in this Deed and Agreement a Party’s  
694 consent is required, such consent may be withheld only upon a reasonable determination by the  
695 consenting party that the action as proposed would be inconsistent with the purpose or terms of this  
696 Deed and Agreement and cannot be modified to make the proposed action consistent with the  
697 purpose and terms of this Deed and Agreement. Any consent may include reasonable conditions  
698 consistent with the purpose and terms of this Deed and Agreement that must be satisfied in  
699 undertaking the proposed action, use, or activity.

700 **Addresses for Notices.** Any notice, demand, request, consent, concurrence, approval, or  
701 communication that either party desires or is required to give to the other shall be in writing either  
702 served personally or sent by registered mail or overnight courier with proof of delivery, addressed  
703 as follows:

704  
705 To Grantor: name  
706 street address  
707 city, state, zip  
708

709 To Grantee: name  
710 street address  
711 city, state, zip  
712

713 **[Insert as appropriate:**

714  
715 To RCO: name  
716 street address  
717 city, state, zip  
718

719 To NRCS: name  
720 street address  
721 city, state, zip]  
722

723 **Transfer of Rights by {Local} Grantee.** The {Local} Grantee agrees that the Development  
724 Rights to the Protected Property shall not be sold, given, divested, transferred, or otherwise  
725 reconveyed in whole or in part in any manner except as provided in King County Ordinance No.  
726 4341, as heretofore or hereafter amended **[Insert as appropriate:** and with the consent of the RCO  
727 **(and NRCS)** prior to initiating said transfer of rights. In the event of such transfer, the  
728 reimbursement due the {Local} Grantee **[Insert as appropriate:** the United States if a funding  
729 contributor] and the Beneficiaries, if any, shall be the percent of the compensation that is equal to  
730 the percent of the {Local} Grantee’s **[Insert as appropriate:** the United States’] and the  
731 Beneficiary/Beneficiaries’ funding that was originally used to acquire the Development Rights  
732 interest as is set forth below in the condemnation provision.] The Grantors, their personal  
733 representatives, heirs, successors or assigns, shall be given the first right of refusal to purchase the  
734 Development Rights in the Protected Property provided such disposition and reconveyance be  
735 lawfully approved.



736       **Subsequent Transfers.** For the purposes of this Section, “Transfer” includes but is not limited  
737 to any sale, grant, lease, hypothecation, encumbrance, assignment, conveyance, or any transaction  
738 the purpose of which is to effect a sale, grant, lease, hypothecation, encumbrance, assignment, or  
739 conveyance. Grantor shall give written notice to the {Local} Grantee of the transfer of any interest  
740 in all or a portion of the Protected Property at least thirty (30) days prior to the date of such transfer.  
741 Such notice to {Local} Grantee shall include the name, address, and telephone number of the  
742 prospective transferee or such transferee’s representative. Grantor agrees to: (1) incorporate by  
743 express reference the terms of this Deed and Agreement in any deed or other legal instrument by  
744 which it divests itself of any interest in all or a portion of the Protected Property; and (2) describe  
745 this Deed and Agreement in and append it to, any executory contract for the transfer of any interest  
746 in the Protected Property. The failure of the Grantor to perform any act required by this Section  
747 shall not impair the validity of the Deed and Agreement or limit its enforceability in any way. A  
748 party’s rights and obligations under this Deed and Agreement terminate upon the transfer of the  
749 party’s interest in the Protected Property or this Deed and Agreement, as the case may be, except  
750 that liability for acts or omissions occurring prior to transfer shall survive transfer.

751       **[Insert as appropriate: Succession.** If {Local} Grantee shall cease to exist, then {Local}  
752 Grantee’s rights and duties hereunder shall become vested and fall upon RCO, who may then assign  
753 **[Insert as appropriate:** with NRCS’s consent, which shall not be unreasonably withheld] {Local}  
754 Grantee’s rights and duties hereunder to an organization with a similar mission to that of {Local}  
755 Grantee.]

756       **No Merger.** If {Local} Grantee or the Beneficiaries, if any, at some future time, acquire the  
757 underlying fee title in the Protected Property, the interest conveyed by this Deed and Agreement  
758 will not merge with fee title but will continue to exist and be managed as a separate estate.

759       **Condemnation.** If all or any of the Protected Property is taken by exercise of the power of  
760 eminent domain or acquired by purchase in lieu of condemnation, so as to remove the previously  
761 acquired Development Rights interest, in whole or in part, Grantor and {Local} Grantee shall act  
762 jointly to recover the full value of the interest in the Protected Property subject to that taking or in  
763 lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase.  
764 **[Insert one of the following:** i) Grantee; ii) Grantee and RCO; iii) {Local} Grantee and the  
765 United States; iv) {Local} Grantee, RCO and the United States] shall be entitled to compensation  
766 in accordance with the following Section, “Valuation,” for the value of the Development Rights  
767 taken and the Grantor shall be entitled to compensation in accordance with applicable law for the  
768 value of the underlying fee title and improvements taken. **[Insert as appropriate:** In the event  
769 that {Local} Grantee is the recipient of the proceeds from any condemnation, then {Local} Grantee  
770 shall distribute to **[Insert one of the following:** i) RCO; ii) the United States; iii) RCO and the  
771 United States] their respective shares of the proceeds as soon as is practicable.]

772       **Valuation.** These Development Rights constitute a real property interest immediately vested in  
773 the Grantee{s}. For purposes of this Section, the Parties stipulate that these Development Rights  
774 have a fair market value determined by multiplying (a) the then fair market value of the Protected  
775 Property unencumbered by the Deed and Agreement (minus any increase in value attributable to  
776 improvements on the Protected Property), at the time of termination or extinguishment, as  
777 determined by an appraisal that meets standard real property appraisal methods by (b) the ratio of  
778 the value of the Development Rights at the time of this grant to the value of the Protected Property,  
779 unencumbered by the Deed and Agreement, at the time of this grant. For purposes of this Section,  
780 the Parties agree that the ratio of the value of the Development Rights to the value of the Grantor’s  
781 property unencumbered by the Deed and Agreement at the date of this conveyance is evidenced by

782 that certain real property appraisal prepared by \_\_\_\_\_, dated \_\_\_\_\_, on file with {Local}  
783 Grantee. This ratio is \_\_\_\_\_(e.g., 0.375) and shall remain constant.

784 **[Insert if RCO is a Third Party Beneficiary:** The amount of compensation entitled to the RCO  
785 shall be the percent of the {Local}Grantee’s share that is equal to the percent of RCO funding that  
786 was originally used to acquire the Development Rights interest, which is\_%. Upon recovery of the  
787 value of these Development Rights, {Local} Grantee shall promptly remit to the RCO its share of  
788 the proceeds.]

789 **[Insert if the United States is a Grantee or a Third Party Beneficiary:** The amount of  
790 compensation entitled to the United States shall be the percent of the {Local} Grantee’s share that is  
791 equal to the percent of federal funding that was originally used to acquire the Development Rights  
792 interest, which is\_%. Upon recovery of the value of these Development Rights, {Local} Grantee  
793 shall promptly remit to the United States its share of the proceeds.]

794 **No Affirmative Obligations; Indemnification.** Grantee{s}, in purchasing the Development  
795 Rights and related interests described herein, assumes no affirmative obligations whatsoever for the  
796 management, supervision or control of the Protected Property or of any activities occurring on the  
797 Protected Property. Grantors shall indemnify Grantee{s} and hold Grantee{s} harmless from all  
798 damages, costs (including, but not limited to, attorneys’ fees and other costs of defense incurred by  
799 Grantee{s}) and other expenses of every kind arising from or incident to any claim or action for  
800 damages, injury, or loss suffered or alleged to have been suffered on or with respect to the Protected  
801 Property. Nothing in his Deed and Agreement shall be construed as giving rise, in the absence of a  
802 judicial decree, to any right or ability in Grantee{s} **[Insert as appropriate:** or any Beneficiary to  
803 this Deed and Agreement] to exercise physical or managerial control over the day-to-day operations  
804 of the Protected Property, or any of Grantor’s activities on the Protected Property, or otherwise to  
805 become an operator with respect to the Protected Property within the meaning of the  
806 Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended  
807 (“CERCLA”). This provision shall be binding upon the Grantors for so long as they hold fee title  
808 to the Protected Property, and shall bind their successors in interest to the fee title to the Protected  
809 Property.

810 **Environmental Warranty.** Grantor warrants that it is in compliance with, and shall remain in  
811 compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by  
812 any governmental authority of any violation or alleged violation of non-compliance or alleged non-  
813 compliance with or any liability under any Environmental Law relating to the operations or  
814 conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a  
815 release or threatened release of Hazardous Materials, as such substances and wastes are defined by  
816 applicable federal and state law.

817 Moreover, Grantor hereby promises to hold harmless and indemnify the {Local} Grantee **[Insert**  
818 **as appropriate:** the United States **and/or** the Beneficiary(ies), if any,] against all litigation,  
819 claims, demands, penalties and damages, including reasonable attorneys’ fees, arising from or  
820 connected with the release or threatened release of any Hazardous Materials on, at, beneath or from  
821 the Protected Property, or arising from or connected with a violation of any Environmental Laws by  
822 Grantor or any other prior owner of the Protected Property. Grantor’s indemnification obligation  
823 shall not be affected by any authorizations provided by {Local} Grantee **[Insert as appropriate:**  
824 the United States and/or the Beneficiary(ies), if any,] to Grantor with respect to the Protected  
825 Property or any restoration activities carried out by {Local} Grantee at the Protected Property;  
826 provided, however, that {Local} Grantee shall be responsible for any Hazardous Materials  
827 contributed after the date of this Deed and Agreement to the Protected Property by {Local} Grantee.

828 “Environmental Law” or “Environmental Laws” means any and all Federal, state, local or  
829 municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or  
830 requirements of any governmental authority regulating or imposing standards of liability or  
831 standards of conduct (including common law) concerning air, water, solid waste, hazardous  
832 materials, worker and community right-to-know, hazard communication, noise, radioactive  
833 material, resource protection, subdivision, inland wetlands and watercourses, health protection and  
834 similar environmental health, safety, building and land use as may now or at any time hereafter be  
835 in effect.

836 “Hazardous Materials” are as defined in Section IV.E. of this Deed and Agreement.

837 **Remediation.** If, at any time, there occurs, or has occurred, a release in, on, or about the  
838 Protected Property of a hazardous substance, Grantor agrees to take or compel responsible third  
839 parties to take all steps required under applicable law and necessary to assure its containment and  
840 remediation, including any cleanup that may be required (except that the use of institutional  
841 controls shall not be allowed without {Local} Grantee’s consent), unless the release was caused by  
842 {Local} Grantee, in which case {Local} Grantee shall be responsible for such remediation to the  
843 extent the release was caused by {Local} Grantee. At its discretion, {Local} Grantee may assist  
844 Grantor in compelling third parties to contain and remediate any such release.

845 **Warranties.** Grantors warrant that they are the sole owners of and have title to the Protected  
846 Property in fee simple and that there is legal access to the Protected Property. The Grantors further  
847 warrant, to the best of their knowledge, that Grantors and the Protected Property are in compliance  
848 with all federal, state, and local laws, regulations, and requirements applicable to the Protected  
849 Property and its use.

850 **Rules of Construction.** This Deed and Agreement shall be interpreted under the laws of the  
851 State of Washington and the United States. Any ambiguities in this Deed and Agreement and  
852 questions as to the validity or interpretation of any of its specific provisions shall be resolved in  
853 favor of the {Local} Grantee so as to preserve the agricultural and open space uses of the Protected  
854 Property and to obtain the goals and objectives expressed in King County Ordinance No. 4341  
855 **[Insert if State funding is used:** and the Farmland Preservation Account as per RCW  
856 79A.15.130]

857 **Severability.** If any section or provision of this Deed and Agreement shall be held by any court  
858 of competent jurisdiction to be unenforceable, this Deed and Agreement shall be construed as  
859 though such section or provision had not been included in it, and the remainder of this Deed and  
860 Agreement shall be enforced as the expression of the parties’ intentions. If any section or provision  
861 of this Deed and Agreement is found to be subject to two constructions, one of which would render  
862 such section or provision invalid, and one of which would render such section or provision valid,  
863 then the latter construction shall prevail. If any section or provision of this Deed and Agreement is  
864 determined to be ambiguous or unclear, it shall be interpreted in accordance with the policies and  
865 provisions expressed in King County Ordinance No. 4341 **[Insert if State funding is used:** and  
866 the Farmland Preservation Account as per RCW 79A.15.130].

867 If any material provision of this Deed and Agreement, or the application thereof to any person or  
868 circumstance, is found to be invalid or unenforceable by any court of competent jurisdiction or is  
869 superseded by state or federal legislation, rules, regulations or decision, so that the intent of these  
870 provisions is frustrated, the parties agree to immediately negotiate a replacement provision to fulfill  
871 the intent of the superseded provisions consistent with the purpose of this Deed and Agreement and  
872 applicable law.

873 **Entire Agreement.** This Deed and Agreement sets forth the entire agreement of the Parties

874 with respect to the Development Rights and supersedes all prior discussions, negotiations,  
875 understandings, or agreements relating to the Development Rights, all of which are merged herein.  
876 No alteration or variation of this Deed and Agreement shall be valid or binding unless contained in  
877 an amendment that complies with this Deed and Agreement.

878 **Recitals.** The Parties agree that the terms and recitals set forth in this Deed and Agreement are  
879 material to this Deed and Agreement, and that each Party has relied on the material nature of such  
880 terms and recitals in entering into this Deed and Agreement. Each term and recital set forth herein  
881 is fully incorporated into this instrument.

882 **[Insert if federal funding is used: Rights of the United States of America.** Under this Deed  
883 and Agreement, the same rights are granted to the United States that are granted to the {Local}  
884 Grantee. However, the Secretary of the United States Department of Agriculture (the Secretary),  
885 on behalf of the United States, will only exercise these rights under the following circumstances:  
886 in the event that **{insert one of the following: i) {Local} Grantee fails or ii) {Local} Grantee or**  
887 **RCO fail}** to enforce any of the terms of this Deed and Agreement as determined in the sole  
888 discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the  
889 United States' rights to enforce the terms of this Deed and Agreement through any and all  
890 authorities available under federal or State law. In the event that **{insert one of the following: i)**  
891 **{Local} Grantee attempts or ii) {Local} Grantee or RCO attempt}** to terminate, transfer or  
892 otherwise divest itself of any rights, title, or interests in this Deed and Agreement without the  
893 prior consent of the Secretary and, if applicable, payment of consideration to the United States,  
894 then, at the option of the Secretary, all right, title, and interest in this Deed and Agreement shall  
895 become vested solely in the United States of America.]

896 **[Insert if RCO is a Third Party Beneficiary: RCO Third Party Right of Enforcement.**  
897 RCO is hereby granted third party right of enforcement of this Deed and Agreement. As such,  
898 RCO may exercise all the rights and remedies provided to {Local} Grantee herein, and is entitled to  
899 all of the indemnifications provided to {Local} Grantee in this Deed and Agreement. RCO and  
900 {Local} Grantee each have independent authority to enforce the terms of the Deed and Agreement;  
901 provided, however, that {Local} Grantee shall have primary responsibility for monitoring and  
902 enforcement of the Deed and Agreement. In the event that RCO and {Local} Grantee do not agree  
903 as to whether the Grantor is complying with the terms of the Deed and Agreement, RCO or {Local}  
904 Grantee may proceed with enforcement actions without the consent of the other. If RCO elects to  
905 enforce the terms of this Deed and Agreement, it shall first follow the process described in the  
906 Section titled "Remedies" above; provided, however, that RCO shall not be obligated to repeat any  
907 non-judicial dispute resolution steps already taken by {Local} Grantee. This third party right of  
908 enforcement does not extend to any other third party and will automatically transfer to another State  
909 agency charged with maintaining, preserving and/or restoring agricultural lands in the event RCO is  
910 dissolved or reorganized.

911 In the event that the Protected Property is used by Grantor in a manner that is not consistent with  
912 the purpose of this Deed and Agreement or the terms of the RCO Grant Agreement, RCO shall  
913 have the right, in addition to any other remedies described in this Deed and Agreement, to require  
914 that Grantor pay to RCO, at RCO's election, the higher of (i) an amount equal to the fair market  
915 value of the Development Rights, which shall be determined and distributed as provided above; or  
916 (ii) an amount equal to the Total Project Cost as specified in the RCO Grant Agreement with  
917 interest due and payable from the date of breach at the rate provided for in RCW 43.17.240, as may  
918 be amended from time to time. Any costs, fees or damages paid by Grantor for enforcement of this  
919 Deed and Agreement or restoration of the Agricultural or Open Space Values of the Protected

920 Property shall be deducted from this amount. RCO agrees that it will follow the process described  
921 in the Section titled “Remedies” before exercising this right, unless legally compelled to do  
922 otherwise. Any amounts due and owing RCO under this paragraph shall be due and owing within  
923 120 days of receiving a written demand for repayment by RCO. Upon grantor’s repayment of such  
924 amount to RCO, {Local} Grantee and ROC agree to prepare and record, **[Insert if applicable:** with  
925 NRCS’s consent (which shall not be unreasonably withheld),] a deed amendment to release Grantor  
926 from any further obligations to RCO or {Local} Grantee under this Deed and Agreement.]

927 **[Insert if RCO is a Third Party Beneficiary and/or if the United States is a Grantee or a**  
928 **Third Party Beneficiary:** Before Grantee{s} or any Beneficiary to this Deed and Agreement  
929 exercises its rights to undertake mediation, arbitration or legal action, the party contemplating  
930 such action agrees to confer with the other parties holding enforcement rights under this Deed  
931 and Agreement as to whether they will join the mediation, arbitration or legal action and share  
932 costs and expenses related to such action; provided, however, that this agreement to confer shall  
933 not be construed as a limitation on the ability of Grantee{s} or any Beneficiary of this Deed and  
934 Agreement to exercise its enforcement and other rights under this Deed and Agreement. If  
935 Grantee{s} and/or any Beneficiary of this Deed and Agreement decide(s) to join in the action and  
936 share costs and expenses related to the action, the parties joining in the action and sharing costs  
937 and expenses related to the action shall apply any recovery to reimburse such parties for their  
938 costs and expenses; provided, however, that any amount received based on loss of value to the  
939 Development Rights or resulting from condemnation and/or extinguishment of the Deed and  
940 Agreement, shall be **{Insert one of the following: i) distributed to RCO; or ii) shared equally**  
941 **by RCO and the United States}** only after reimbursing such parties for their costs and expenses.

942 If Grantee{s} or any Beneficiary of this Deed and Agreement choose{s} not to undertake  
943 mediation, arbitration or legal action and/or share costs and expenses related to such action, such  
944 party shall not be entitled to any recovery for enforcement costs; provided, however, that any  
945 amount received based on loss of value to the Development Rights, or resulting from  
946 condemnation and/or extinguishment of the Development Rights, shall be distributed in  
947 accordance with this Deed and Agreement only after first reimbursing any party for its costs and  
948 expenses that are not otherwise separately paid as part of any arbitration award or judgment.]

949  
950 **Schedule of Exhibits. (list the exhibits)**

951  
952 **TO HAVE AND TO HOLD** unto King County, Washington, its successors and assigns  
953 forever.

954  
955 **[If the United States is a Grantee substitute the following: TO HAVE AND TO HOLD**  
956 **unto King County, Washington, its successors and assigns, and unto the United States of**  
957 **America, forever.]**

958  
959 **[Insert as appropriate:**

960 Approved as to Form

961  
962  
963  
964 \_\_\_\_\_  
965 King County Prosecuting Attorney Date

966

967  
968 Approved as to Form

969  
970  
971 \_\_\_\_\_  
972 Office of the Attorney General Date ]

973  
974  
975  
976 **IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and**  
977 **year first above written.**

978  
979  
980 GRANTEE GRANTOR  
981  
982 KING COUNTY \_\_\_\_\_  
983  
984  
985 BY \_\_\_\_\_ \_\_\_\_\_  
986

987  
988  
989  
990  
991  
992 **[Insert as appropriate: signature blocks for the United States and Third Party**  
993 **Beneficiaries]**  
994  
995 **[Insert Notary acknowledgement(s)]**