

## SPECIAL WARRANTY DEED

Upon Conditions, Restrictions and Limitations

Record and Return to (and Grantee's Address for Tax Mailing):

Eastport Port Authority  
3 Madison Street  
Eastport, Maine 04631

The State of Maine       )  
                                      )  
County of Washington    )

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned, BASF Corporation, a Delaware corporation ("Grantor"), with a place of business at 100 Campus Drive, Florham Park, New Jersey 07932, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid to Grantor by the Eastport Port Authority, a quasi-governmental agency established under the statutory authority of the State of Maine ("Grantee"), the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, and release unto the said Grantee, its successors and assigns forever, the following described real estate, and buildings and improvements as situated thereon, in the City of Eastport, Washington County, State of Maine, to wit:

See Schedule A attached hereto and incorporated herein

(all of such property hereinafter referred to as the "Property").

### Express Conditions

This conveyance is expressly made subject to and on the following conditions, as limited herein:

- (1) The Property shall not be used for any Residential Use (defined below), in whole or in part;
- (2) No ground water wells (defined below) shall be drilled, constructed or installed on the Property and no use shall be made of ground water on, under or about the Property.

As used herein, "Residential Use" shall mean and include any improvement, structure or dwelling used for living accommodations (single or multi-family occupancy), day care facility (whether infant, child, infirm, or elderly), grade/elementary school, playground or senior citizen housing or other similar or like use.

As used herein "ground water wells" shall specifically exclude any well or wells which shall be required for purposes of monitoring, treatment or remediation of environmental conditions on or about the Property (each a "Permitted Well") if such Permitted Well shall be required by any governmental agency having proper jurisdiction for monitoring, treatment or remediation of conditions on the Property. Any such Permitted Well shall not be deemed or construed to be a violation of the specified condition set forth in (2) above. Further, it shall not be a violation of the specified condition set forth in (2) above, if any federal or state law, rule,

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regulation or municipal ordinance, rule or regulation (the foregoing collectively "law") (excluding any private law, municipal ordinance, rule or regulation) requires an owner of real property to install a ground water well (other than a Permitted Well) or use the ground water that is located in, on, at, under or about the Property; provided, however, that Grantee shall have first zealously, actively and diligently contested or challenged such law and obtained a final judgment by a court of competent jurisdiction, after the exhaustion of all appeals, that the Property owner is compelled and required to install a ground water well or to use ground water that is located in, on, at, under or about the Property.

### **Cure and Correction of Violation of Express Conditions**

In the event of the violation of any of the foregoing conditions, Grantor may give Grantee, its successors or assigns, written notice (the "Notice") of such violation. Any such Notice shall also be given to each "Mortgagee of Record" (as hereinafter defined) in respect of the Property. Grantee, its successors and assigns, or any Mortgagee of Record shall cure or correct such violation no later than sixty (60) days following the receipt of the Notice, such sixty day period as to each party to be given notice herein shall run from the date of receipt by such party.

In the event Grantee, its successors or assigns and/or any Mortgagee of Record hereunder, shall fail to cure such violation within sixty (60) days of its receipt of the Notice, then for so long as the violation remains uncured, Grantor, its successors or assigns, shall have the right (but not the obligation) to enter upon the Property and take any appropriate and necessary actions to remedy or correct the violation all for the account of and at the cost, expense and charge of Grantee. And Grantor shall have a lien against the Property for the costs, charges, fees and expenses incurred by Grantor in performing actions to correct or remedy such violation. Upon demand of Grantor, Grantee shall immediately pay to Grantor the actual costs, expenses, fees or charges incurred or payable by Grantor in connection with Grantor's actions to correct or remedy any violation. If Grantor enters the Property pursuant to the right permitted to Grantor to enter to cure or correct any violation of conditions, Grantor shall have no liability to Grantee, nor shall Grantee have any claim or recourse against Grantor for any injury or harm or negligence of Grantor arising out of or in connection with such correction of remedy.

In the event Grantee, its successors or assigns and/or any Mortgagee of Record hereunder, shall fail to cure such violation within sixty (60) days of its receipt of the Notice, then for so long as the violation remains uncured, and in addition to and without obligation to first exercise any other right of Grantor herein or otherwise first exhaust any other right or remedy permitted by law, Grantor, its successors or assigns, shall have the right to (but not the obligation) and may re-enter the Property, and upon such re-entry all title and the right of possession thereof of Grantee shall immediately vest in Grantor, its successors and assigns, free and clear of all liens, charges or encumbrances of a monetary nature (collectively, the foregoing are referred to as "encumbrances"), including, by way of example and not by limitation, mortgages, deeds of trust or securitized financing or loan instruments and, free and clear of any encumbrances which were not given or obtained for value and in good faith and excepting those existing on the date of this deed and the lien of a Mortgagee of Record, without any further act or deed and upon such re-entry of Grantor, Grantee, its successors and assigns, shall immediately forfeit all right, interest and title to the Property or such portion thereof, or alternatively, by giving notice to Grantee of intent to cure, Grantor, its successors and assigns, may elect to enter the Property (but without the obligation to do so) to cure or correct the violation, and all costs and expenses of Grantor in effecting such cure or correction, including reasonable attorney fees

and costs of suit, if any, shall be paid by Grantee, its successors and assigns, upon demand made by Grantor and until so paid, shall constitute a lien running with the land. If Grantee shall fail to make payment upon demand by Grantor, then and in that event, Grantee, its successors and assigns, shall pay such additional sums as incurred by Grantor to enforce its rights and collect such amounts owed by Grantee, its successors or assigns. In the event of such re-entry, Grantor shall only be responsible to compensate Grantee, its successors or assigns, by return of the deed consideration paid by the Grantee herein. Other than the return of the deed consideration as aforesaid, Grantor shall not be required to pay to Grantee, its successors or assigns any compensation for any buildings or other improvements on the Property or such portion thereof, or appreciation in value of the Property and Grantor shall not incur any liability for damages or losses of any kind in connection with or resulting from such re-entry.

"Mortgagee of Record" shall mean any institutional lender or institutional mortgagee holding a lien, mortgage or deed of trust to secure financing for the acquisition of the Property and the construction of improvements, structures or buildings on the Property and any refinancings thereof if the aforesaid lien, mortgage or deed of trust has been filed for record in the applicable real estate records of Washington County, in the State of Maine. Notices shall be sent to such Mortgagee of Record at such address as is set forth in such Mortgagee of Record's recorded mortgage, as such address may be modified by any document executed by such Mortgagee of Record (including without limitation any amendment to such mortgage) cross referencing such mortgage and recorded in the real estate records.

#### **Recitation of Conditions and Covenants**

All conditions and covenants of this Deed shall be binding upon Grantee, its successors and assigns, including any subsequent owner who derives its title through foreclosure or trustee's sale or otherwise, as if each and every said successor and assign, had been the Grantee under this Deed and all conditions and covenants of this Deed shall be recited and set forth in each deed of conveyance hereinafter made, granted and delivered.

#### **Reserved Access**

Grantor hereby expressly reserves unto itself and its successors and assigns, a perpetual, non-exclusive, right of entry and the right of ingress and egress (herein collectively, the "Access Rights") reasonably convenient, upon, above, over, under and across the Property for the purposes of satisfying Grantor's continuing and/or future obligations, if any, whatever the character or nature, under any applicable law, rule or regulation regulating environmental conditions on the Property.

Grantor and Grantee acknowledge and represent that the foregoing Access Rights are blanket rights affecting the entire Property and that any such entry, ingress and egress by Grantor pursuant to this reservation, shall not unreasonably interfere with the permitted use of the Property by Grantee, its successors or assigns.

Grantor and Grantee shall cooperate reasonably in their efforts to minimize the disturbance of the permitted use of the Property by Grantee resulting from Grantor's exercise of the Access Rights.

### **Grantor Indemnity**

Should Grantor exercise its Access Rights pursuant to the immediately preceding paragraph, Grantor shall promptly reimburse Grantee for its actual, out of pocket costs and expenses incurred in connection with Grantor's exercise of the Access Rights, including, if necessary or applicable, the repair of buildings, fixtures, and other improvements on the Property at the time Grantor exercises its Access Rights. Grantor agrees that it shall indemnify, defend, and hold Grantee, its successors and assigns, harmless against claims, damages, losses, or expenses to the extent not remediated by the preceding reimbursement, including reasonable attorney fees and costs of suit, if any, arising as a result of Grantor's exercise of such rights, excluding however, any claims, damages, losses, or expenses for special, consequential (including business interruption and/or lost profits) or punitive damages or those claims, damages, losses, or expenses caused by the negligent or wrongful acts or omissions of Grantee or Grantee's successors and assigns. Any exercise of the Access Rights by Grantor shall be done promptly in consideration of the relevant circumstances, and in a manner to cause minimal disruption and disturbance to the then existing operation of the Property.

### **Limited Warranty of Title Covenants**

Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, other than the exceptions hereinafter stated.

### **Exceptions for Matters of Record**

In addition to all other conditions and restrictions in this deed, this conveyance and the special warranty covenants are made subject to current zoning and other governmental restrictions, all covenants, conditions, restrictions, easements and rights of way, and other matters of record, rights of the public in public ways, such state of facts as would be shown on an accurate survey and real estate taxes and installments of assessments not delinquent on the date hereof.

### **Derivation—Prior Instrument Reference**

The Property hereinabove described was acquired by Grantor by instrument recorded in Book 3764, Page 175.

**(Signatures appear on the next page)**

IN WITNESS WHEREOF, Grantor has caused this Deed to be signed by its proper corporate officer and its corporate seal to be affixed effective as of the 2<sup>nd</sup> day of September, 2011.

Signed, Sealed and delivered  
in the presence of

Catherine A. Truitt  
Name:

GRANTOR:

BASF CORPORATION



By:

Robert N. Smith  
Name:

Vice President  
Title:

State of New Jersey, County of Morris

S.S:

The foregoing instrument was acknowledged before me this 8/9/2011 (date) by Robert N. Smith of BASF Corporation, a Delaware corporation, who acknowledged that, he signed and delivered the within instrument on behalf of said corporation for the purposes set forth in said instrument.

**SEAL**

Jeanne Marie Hahn  
Print name:

Notary Public

**JEANNE MARIE HAHN**

**Notary Public**

**New Jersey**

**My Commission Expires 12-06-2012**

My commission expires:

**SCHEDULE A**

**LEGAL DESCRIPTION**

**[SEE ATTACHED]**

**Property Description  
Of Land of  
Mearl, LLC  
Staniels Road  
Eastport, Washington County, Maine  
June 29, 2011**

A certain lot or parcel of land located on the southeasterly side of Staniels Road, said parcel being shown as the southeasterly portion of land on a plan entitled "ALTA/ACSM Land Title Survey, Property of Mearl, LLC, Staniels Road, Eastport, Washington County, Maine", dated October 9, 2007, revised June 29, 2011, and prepared by CES, Inc., said parcel being situated in the City of Eastport, County of Washington, State of Maine, and being more particularly described as follows:

**BEGINNING** at a 4" concrete marker with brass disk ("U.S. Property Marker") found on the southeasterly line of Staniels Road, at the westerly-most corner of land formerly of Walter Irving, now or formerly of Christina M. Fisheries, Inc., as described in a deed dated February 16, 1990 and recorded in Washington County Registry of Deeds (WCRD) Book 1628, Page 157;

**THENCE**, S 58°14'52" E, along a southwesterly line of said land of Christina M. Fisheries, Inc., a distance of 89.00 feet;

**THENCE**, S 61°05'59" E, along a southwesterly line of said land of Christina M. Fisheries, Inc., a distance of 10.65 feet;

**THENCE**, S 61°51'36" E, along a southwesterly line of said land of Christina M. Fisheries, Inc., a distance of 246.00 feet, to a second 4" concrete marker with brass disk ("U.S. Property Marker") found (the last three courses being described as bearing "South 39°30' East along Southwesterly line of land now or formerly of Walter Irving for a distance of Three Hundred Forty Eight (348) feet..." in Exhibit A, Broad Cove Property, Lot 3B of Lawyers Title Insurance Corporation Commitment, Case No. 07027661, dated August 21, 2007);

**THENCE**, N 61°52'44" E, along a southerly line of said land of Christina M. Fisheries, Inc., a distance of 204.98 feet, to a 5/8" rebar with Surveyor's cap (Andrew J. Pottle, P.L.S. #2062) found (said course being described as bearing "North 85°15' East along Southwesterly line of land now or formerly of Walter Irving for a distance of Two Hundred Fifty-five (255) feet..." in said Exhibit A);

**THENCE**, S 70°44'46" E, along a southwesterly line of said land of Christina M. Fisheries, Inc., a distance of 343.15 feet, to a third 4" concrete marker with brass disk ("U.S. Property Marker") found at a westerly corner of land now or formerly of City of Eastport, as described in a deed dated February 16, 1990 and recorded in WCRD Book 1628, Page 17;



**THENCE**, S 72°19'13" E, along a southwesterly line of said land of City of Eastport, a distance of 373.41 feet, to a fourth 4" concrete marker with brass disk ("U.S. Property Marker") found (the last two courses being described as bearing "South 47° East along Southwesterly line of land now or formerly of Walter Irving for a distance of Seven Hundred Thirty-six (736) feet..." in said Exhibit A);

**THENCE**, S 06°22'21" W, along a westerly line of said land of City of Eastport, a distance of 292.53 feet;

**THENCE**, S 09°00'02" W, along a westerly line of said land of City of Eastport, a distance of 191.64 feet;

**THENCE**, S 08°40'16" W, along a westerly line of said land of City of Eastport, a distance of 114.59 feet, to a fifth 4" concrete marker with brass disk ("U.S. Property Marker") found, on the northeasterly line of land now or formerly of Kim O. Wadsworth and Josephine M. Wadsworth, as described in a deed dated October, 2004 and recorded in WCRD Book 2956, Page 66 (the last three courses being described as bearing "South 28°45' West along Westerly line of land now or formerly of Walter Irving for a distance of Five Hundred Ninety-six (596) feet..." in said Exhibit A);

**THENCE**, N 80°11'46" W, along the northeasterly line of said land of Wadsworth, a distance of 925.07 feet, to a 5/8" rebar with Surveyor's cap (CES, Inc., PLS #2062) found, (said course being described as bearing "North 58°30' West along Northeasterly line of land belonging to Gerald McGarvey for a distance of Nine Hundred Fifty-eight (958) feet..." in said Exhibit A), said rebar found being located S 13°07'50" E, a distance of 753.41 feet, from the **POINT OF BEGINNING**;

**THENCE**, continuing N 80°11'46" W, along the northeasterly line of said land of Wadsworth, to the low water mark of Broad Cove (said course being described as "... continuing on same course of North 58°30' West to a point at low water mark..." in said Exhibit A);

**THENCE**, northwesterly, along the low water mark of Broad Cove, to the southerly-most corner of "Broad Cove Property, Lot 2", as described in the above referenced Exhibit A (said course being described as "... running along low water mark on North 24°15' West. Bearing..." in said Exhibit A);

**THENCE**, N 22°43" E, more or less, along the southeasterly line of "Broad Cove Property, Lot 2", to the high water mark of Broad Cove;

**THENCE**, continuing N 22°43" E, more or less, along the southeasterly line of "Broad Cove Property, Lot 2", a distance of 139.3 feet, more or less, to its intersection with a line which bears S 68°13'54" W from the southerly-most corner of the apparent right-of-way of Staniels Road (said course along "Broad Cove Property, Lot 2 being described as "...south 43°30' west to low water mark of the waters of Broad Cove");

**THENCE**, N 68°13'54" E, crossing land now or formerly of Mearl, LLC, as described in a deed dated July 17, 1997 and recorded in WCRD Book 2176, Page 043, and passing through an existing utility pole, a distance of 77.7 feet, more or less, to the southerly-most corner of the apparent right-of-way of Staniels Road;

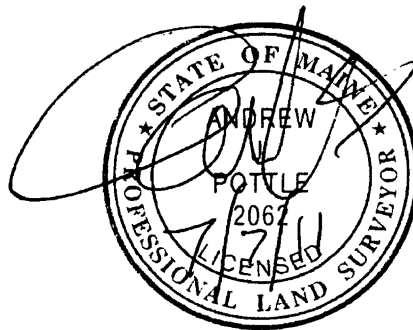
**THENCE**, N 45°24'13" E, along the southeasterly line of Staniels Road, a distance of 253.36 feet, to the **POINT OF BEGINNING** (said course along the southeasterly line of Staniels Road being described by a series of bearings and distances in Exhibit A, "Broad Cove Property, Lot 3B").

**ALSO CONVEYING** any right, title and interest the grantor may have to lands lying between the centerline and above described sideline of Staniels Road, in accordance with the laws of the State of Maine.

The above described parcel, containing 18.6 acres, more or less, is intended to encompass "Broad Cove Property, Lot 3B" and "Broad Cove Property, Lot 4" of Lawyers Title Insurance Corporation Commitment, Case No. 07027661, dated August 21, 2007. The above described parcel is a portion of lands described in a Confirmatory Deed between The Mearl Corporation and Mearl, LLC, dated July 17, 1997 and recorded in Washington County Registry of Deeds Book 2176, Page 43. The above described parcel is a portion of lands shown on a plan entitled "ALTA/ACSM Land Title Survey, Property of Mearl, LLC, dated October 9, 2007, revised June 29, 2011, and prepared by CES, Inc.

Bearings refer to the Grid Meridian (NAD 83, Maine East Zone), as derived using GPS positioning, based on information obtained from the National Geodetic Survey on the following Survey Control Marks:

- a. "EPM B", found near the southerly end of Eastport Airport
- b. "841 0140 I Tidal", found near the entrance of the Municipal Pier.



Received  
Recorded Register of Deeds  
Sep 13, 2011 10:42:47A  
Washington County  
Sharon D. Strout