

FOREST CONSERVATION EASEMENT

INSPECTION AND MAINTENANCE COVENANTS AND AGREEMENT

THIS CONSERVATION EASEMENT IS MADE THIS _____ day of _____, 20____, by _____, having an address at _____, (“Grantor”), in favor of the County Commissioners of Charles County, Maryland, a body corporate and politic (“Grantee”).

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Charles County, Maryland, more particularly described in Exhibit A attached hereto (the “Property”); and

WHEREAS, Grantor desires to establish within the Property a Forest Conservation Area of _____ total acres as shown on the approved Final Forest Conservation Plan, and as further described by Exhibit A;

WHEREAS, Grantor desires this Forest Conservation Area to run with the Property and bind future owners thereof;

WHEREAS, Grantor desires and intends to convey to Grantee the right to preserve and protect the conservation values of the Forest Conservation Area in perpetuity; and

WHEREAS, Grantee agrees by accepting this grant to preserve and protect in perpetuity the conservation values of the Forest Conservation Area for the benefit of this generation and the generations to come;

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby grants and conveys to Grantee a conservation easement in perpetuity over the Property, as more particularly described on the attached Exhibit A entitled: _____, of the nature and character and to the extent hereinafter set forth (“Easement”).

1. The Grantors, their successors, heirs and assigns, covenant and agree to preserve and protect the conservation values, thus providing for all planting, maintenance, and protection, of the Forest Conservation Area, in perpetuity, to ensure that the Property is and remains in compliance with the approved Forest Conservation Plan No. _____ on file with the Charles County Department of Planning and Growth Management, Division of Planning, and all applicable standards, rules, regulations, and laws.

2. Unless otherwise provided, the person(s) or (entity) having legal title to the particular

section of property where any Forest Conservation Easement Area is located, as per on the Final Forest Conservation Plan, is responsible for the maintenance and protection of that area. In the event a Forest Conservation Easement Area is located in one or more parcels under different ownerships, the owners of the parcels are responsible for their pro rata share of any maintenance.

3. No right of access by the general public to any portion of the Property is conveyed by this Easement. The easement neither restricts or enlarges access to the general public in common open space held under community or homeowner association control, beyond any access rights specific to the applicable community or homeowner association covenants and bylaws.

4. The Charles County Department of Planning and Growth Management is conveyed the right to preserve and protect the conservation values of the Forest Conservation Area, the right to enter upon the Property containing the Forest Conservation Area at reasonable times for the purpose of monitoring compliance with and otherwise enforce the terms of this Easement, and the right to prevent any activity on or use of the Forest Conservation Area that is inconsistent with the terms of this Easement and to require the restoration of features within the Forest Conservation Area that may be damaged by any inconsistent activity or use.

5. Upon receipt of notice from the Charles County Division of Planning that the Grantor is in violation of any terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to remedy the violation. However, if Charles County, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Forest Conservation Area, Charles County may pursue its remedies under this paragraph without prior notice to Grantor. Otherwise, Grantor or other responsible party shall remedy the violation, as directed by Charles County, within thirty (30) days. If adequate remedy is not attained within thirty (30) days, Charles County is granted discretion to perform all the necessary work to remedy such that the terms of this Easement are satisfied, and the Owner of the Property (s) containing the Forest Conservation Area shall be assessed for the cost of the work. If not paid within 30 days, the assessment shall create a lien on the property and may be included in the tax bill for the Property containing the Forest Conservation Area, and collected as taxes by Charles County. Charles County shall retain the option to bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values of the Forest Conservation Area. Grantor agrees to pay for Court costs and reasonable attorneys' fees if the County prevails any judicial proceedings. No delay or omission by Charles County in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantor hereby waives any defense of laches, estoppel, or prescription.

6. The Grantors shall indemnify and save Charles County harmless from any and all claims for damages to persons or property arising from the construction, maintenance, and use of the Property. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property including, without

limitation, the payment of taxes on the Property.

7. Limited clearing of trees and other plant materials may occur in conjunction with horticultural practices normally used to maintain or improve forest health, or in conjunction with hiking and interpretive trail development. Removal of exotic or invasive species is permitted and encouraged, and diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage. Non-native, or exotic species of plants, are plants that establish artificially in locations other than the known historical range of the particular species, typically transported from other continents or regions. Invasive plant species grow rapidly over large areas, typically displacing other less invasive native species. Damage to any remaining trees and other plant materials, resulting from said clearing, shall be avoided to the maximum extent feasible, and remaining trees six (6) inches or greater in diameter at four and one half (4.5) feet above the ground shall be protected from any damage whatsoever.

8. Non-commercial and commercial timber harvesting may occur, provided a State-approved or recommended Forest Management Plan is approved by the Charles County Zoning Officer, as a revision to the Final Forest Conservation Plan. In addition, the specific area of timber harvest activities shall be subject to a Timber Harvest Plan, prepared by a State-Licensed Forester, consistent with the intent of the Forest Management Plan and the intent and requirements of the Forest Conservation Plan. Clearing of trees or other plant materials, in conjunction with timber harvesting, shall not exceed the 'Forest Threshold Density' of no less than 100 trees per acre, with at least 50 percent of those remaining protected trees having a 2 inch or greater diameter at 4.5 feet above the ground. Native saplings and seedlings shall be protected, to the extent feasible, particularly in Forest Conservation Easement Areas where the density of trees is less than the Forest Threshold Density.

9. Removal of trees or other plant materials within one hundred (100) feet of perennial, intermittent and ephemeral streams, including all area designated as Resource Protection Overlay Zone (RPZ), shall be limited to exotic and invasive species. Such removal shall avoid causing conditions of erosion and any other adverse effects to natural slope stability, and enhancement of stability through the planting of native plant species unique to site conditions is encouraged.

10. Accessory appurtenances to a dwelling unit are permissible, including but not limited to play equipment, dog houses and pens, fences, and sheds, providing that such structures do not individually occupy an area greater than 100 square feet, do not cause damage to the forested area, and provided associated construction and maintenance is performed in compliance with all parts of this easement.

11. Mowing may occur if performed in compliance with Item numbers 7 and 8 above, but may not occur within 100 feet of streams and within the RPZ as referred to above in Item number 9.

12. Posting of advertisement, including signs or billboards, is not permissible.

13. Disposal of waste materials, man-made or otherwise, including but not limited to

construction debris, appliances, water craft and motor vehicles, is not permissible. Dumping of organic material, such as ashes, sawdust, leaves or grass clippings, shall be limited to placement in a properly located, designed, and maintained compost pile, and shall not result in damage to the forested area, subject to approval by the Zoning Officer.

14. The Forest Conservation Area shall not be used as a site for any major public utility installation, including but not limited to electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, or telephone exchanges, except with variance approval as per Article XV of the Charles County Forest Conservation Ordinance. Permitted facilities shall be located to limit loss of trees, or damage to trees, to the maximum extent feasible.

15. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Charles County of the transfer of any interest no fewer than twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its ability to enforce in any way.

16. The general provisions of this Easement are as follows:

(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Maryland.

(b) Liberal Construction. Any general rule of construction to the contrary of, and notwithstanding this Easement, shall be liberally construed in favor of the grant to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement.

(e) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands and seals on the day and year first above written.

_____ (Seal)

_____ (Seal)
Grantor(s)

STATE OF MARYLAND
COUNTY OF CHARLES TO WIT:

I HEREBY CERTIFY that on this ____ day of _____ 200__ before me the subscriber, a notary public of the State and County aforesaid, personally appeared _____ and duly acknowledged the foregoing Conservation Easement to be his/her act.

WITNESS my hand in Notarial Seal

Notary Public

My commission expires _____

THE COUNTY COMMISSIONERS OF CHARLES
COUNTY, MARYLAND

Grantee

by _____

its _____