

Tax Account ID as of date of recordation of this Conservation Easement: \_\_\_\_\_

**NOTICE: THIS DEED OF CONSERVATION EASEMENT CONTAINS COVENANTS THAT RESTRICT USE, SUBDIVISION, AND SALE OF LAND IN PERPETUITY AND REQUIRES SPECIFIC REFERENCE IN A SEPARATE PARAGRAPH OF ANY SUBSEQUENT DEED OR OTHER LEGAL INSTRUMENT BY WHICH ANY INTEREST IN THE ENCUMBERED PROPERTY IS CONVEYED.**

## **DEED OF CONSERVATION EASEMENT**

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_, having an address at \_\_\_\_\_ (collectively, "Grantors") and the [*Insert Land Trust Name*], a Maryland nonprofit corporation, having an address at \_\_\_\_\_ ("\_\_\_\_") (collectively, "Grantees").

### **ARTICLE I. PARTIES AND PROPERTY**

A. Grantors and Property. Grantors own in fee simple \_\_\_\_\_ acres, more or less, of certain real property in \_\_\_\_\_ County, Maryland, and more particularly described in Exhibit A attached hereto, which was conveyed to the Grantors by \_\_\_\_\_ by Deed dated \_\_\_\_\_ and recorded among the Land Records of \_\_\_\_\_ County, Maryland in Liber \_\_\_\_\_, Folio \_\_\_\_\_ (the "Property"). The address of the Property is \_\_\_\_\_. The Property is identified on tax map \_\_\_\_\_, parcel \_\_\_\_\_.

The Property consists of \_\_\_\_\_ acres of [agricultural land, woodlands, open fields, etc...]; a portion of the [stream or river]; shoreline on the [Chesapeake Bay, Deep Creek Lake, etc...]; relatively natural habitat for [significant flora or fauna]; scenic value of significant public benefit [along road, street, highway, or navigable waterway].

B. Grantee. [*Insert Land Trust Name*] is a nonprofit tax exempt organization within the meaning of 26 USCA § 501(c)(3) of the IRC, established for \_\_\_\_\_, and is a "qualified organization" within the meaning of Section 170(h)(3) of the IRC.

### **ARTICLE II. GRANT OF PERPETUAL CONSERVATION EASEMENT**

A. Grant of Conservation Easement. In recognition of the Conservation Purposes of the Property defined below, Grantors, for themselves, their personal representatives, successors, and assigns, unconditionally and irrevocably do grant and convey to the [*Insert Land Trust Name*], its successors and assigns and [*Insert co-grantee if applicable*], its successors and assigns this perpetual, Conservation Easement in, on, and over the Property, for the purpose of ensuring the perpetual preservation and conservation of the Property by restricting and limiting the use and development of the Property in perpetuity. Grantors intend to make a charitable gift of a qualified conservation contribution in the form of this Conservation Easement. As an absolute

gift made with charitable intent for no monetary consideration (\$0.00) and there being no goods or services received in exchange but in consideration of the facts stated in the above paragraphs and the covenants, terms, conditions and restrictions in this Conservation Easement, Grantors unconditionally and irrevocably hereby voluntarily grant and convey in trust unto Grantees, their successors and assigns, forever and in perpetuity, this Conservation Easement of the nature and character and to the extent set forth below, with respect to the Property. By execution hereof, Grantors intend to create a charitable trust to benefit the citizens of the State of Maryland.

B. Acceptance of Conveyance. Grantees intend hereby to accept this Conservation Easement and to hold this Conservation Easement exclusively for conservation purposes, as defined in 26 USCA §170(h)(4)(A) of the IRC. Grantees are able to and will monitor and enforce this Conservation Easement.

C. Perpetual Duration of the Conservation Easement. This Conservation Easement shall be perpetual. It is an easement in gross and as such it is inheritable and assignable in accordance with Article XI.B., it runs with the land as an incorporeal interest in the Property, and it is enforceable with respect to the Property by Grantees against Grantors and their personal representatives, heirs, successors, assigns, and on all future owners of the Property.

D. Retained Property Rights. Grantors remain owners of their fee simple interest in the Property and therefore retain the right to sell, devise, transfer, lease, mortgage, or otherwise encumber the Property subject to the Provisions of this Conservation Easement. Grantors retain the right to sell, trade, or exchange credits allocated to Agricultural products produced on the Property.

E. Grant of Unreserved Property Rights to Grantees. Grantors hereby grant to Grantees all rights except those rights specifically reserved herein that are now or hereafter allocated to, implied, reserved or inherent in the Property, and the parties agree that such rights are terminated and extinguished and may not be used or transferred to any other property adjacent or otherwise, and may not be used for the purpose of calculating permissible lot yield of the Property or any other property. Grantors further agree that the Property shall not be used to provide required open space for the development or subdivision of another property, nor shall it be used in determining any other permissible residential, commercial or agricultural uses of another property.

F. No Grant of Public Access. Although this Conservation Easement will benefit the public, the grant of this Conservation Easement does not convey to the public the right to enter the Property for any purpose whatsoever.

G. Economic Hardship. Grantors are aware and acknowledge that the activities and uses allowed on the Property once encumbered by this Conservation Easement may be less profitable than prohibited activities and uses. This circumstance shall not be grounds for judicial extinguishment of this Conservation Easement.

### **ARTICLE III. CONSERVATION PURPOSES AND ATTRIBUTES**

A. Conservation Purposes. The conservation of the Property will further the following Conservation Purposes, which are more fully described in Exhibit B, which is incorporated herein: (1) the preservation of land areas for outdoor recreation by or the education of the general public; (2) the protection of relatively natural habitat of fish, wildlife or plants, or similar ecosystems; (3) the preservation of open space for the scenic enjoyment of the general public and which yields a significant public benefit, or pursuant to a clearly delineated Federal, State, or local governmental conservation policy and which yields a significant public benefit; and (4) the preservation of historically important land areas or certified historic structures (“Conservation Purposes”) pursuant to and in compliance with the requirements of 26 USCA § 170(h)(4)(A) of the IRC and Section 1.170A-14(d) of the Treasury Regulations. *[Note to Drafter: remove items 1-4 as applicable]*.

The intention of the Grantors and the Grantees is for this Conservation Easement to preserve and protect in perpetuity the Conservation Purposes of the Property identified above and further described in Exhibit B, and to prevent the use or further development of the Property in any manner that would conflict with these Conservation Purposes. The Conservation Purposes are not likely to be adversely affected to any substantial extent by the continued use of the Property as authorized herein or by the use, maintenance or construction of those Structures (as defined below) that exist on the Property or are allowed herein.

B. Conservation Attributes. The specific features of the Property that have been deemed worthy of perpetual protection by this Conservation Easement constitute the Conservation Attributes of the Property (“Conservation Attributes”). The Conservation Attributes are listed and described in Exhibit B.

#### **ARTICLE IV. DEFINITIONS**

A. “Agriculture” or “Agricultural” means production and/or management of products such as livestock, poultry, crops, trees, shrubs, plants and other vegetation, and aquaculture, but not surface, sub-surface, or spring water. This includes, by way of example and not limitation, the related activities of: tillage, fertilization, application of pesticides, herbicides and other chemicals, harvesting and mowing, irrigation, and the feeding, housing, breeding, raising, boarding, training and maintaining of animals such as horses, ponies, cattle, sheep, goats, hogs, and poultry.

B. “Buffer” means a naturally vegetated area consisting of warm or cool season grasses, shrubs and or trees/forest, or an area established in vegetation of native warm or cool season grasses, shrubs, and or trees/forest that is maintained to protect the adjacent aquatic resources, shoreline/streambank, and the area of habitat along shoreline/stream from manmade disturbances, sediment, excess nutrients, and potentially harmful substances in storm water runoff. Buffer does not mean a vegetated area composed of turf grass or lawn. Provisions for the Buffer on the Property are in Article V.J. of this Conservation Easement.

C. “Building” means any Structure which is designed, built, or occupied as a shelter for persons, animals, or personal property.

D. “Building Area” means those portions of the Property identified and depicted at fixed locations on Exhibit G within which all Buildings identified on Exhibit C and all allowed Buildings must be located and constructed. The Conservation Purpose applies to the land within the Building Area and the Structures allowed therein will not adversely impact the Conservation Purposes.

E. “Commercial” means any use or activity conducted by Grantors or a third party for the purpose of generating revenue or other benefit to Grantors, their designees, or such third party from the exchange of goods or services by sale, barter, or trade, as well as any activity generally recognized as commercial by local zoning authorities in this State.

F. “Conservation Attributes” are those specific features of the Property listed and described further in Exhibit B that are worthy of perpetual protection by this Conservation Easement.

G. “Conservation Purposes” means purposes of this Conservation Easement as set forth in Article III. A.

H. “Dwelling Unit” means a Building that contains one or more rooms arranged for independent living facilities for at least one person including permanent provisions for (i) sanitation; (ii) cooking; (iii) sleeping; and (iv) other activities routinely associated with habitation.

I. “Ecosystems Services” means the conditions and processes through which natural ecosystems (such as forests, wetlands, grasslands, and endangered species habitat and the species that inhabit them) provide services (such as air and water purification, flood control, carbon and nutrient scrubbing, soil formation, decomposition and filtration of waste, pollination of crops, provision of habitat) that sustain and fulfill healthy human and natural systems.

J. “Ecosystems Services Marketing” means sale, trade, exchange or payment to conserve, establish or enhance a particular natural function or Ecosystems Service.

K. “FIDS” means forest interior dwelling bird species.

L. “FIDS Guidelines” means the FIDS/Forestry Task Force Chesapeake Bay Critical Area Timber Harvest Plan Guidelines published June 2, 1999 by the Maryland Department of Natural Resources, or comparable guidelines, regulations or other requirements which may replace the June 2, 1999 FIDS Guidelines in the future.

M. “Forest Areas” means a biological community dominated by trees and other woody plants covering a land area of one acre or greater, or a land area of one acre or greater which formerly had such a biological community and is not currently developed, cleared for Agricultural use, or otherwise converted. The Property contains approximately [redacted] acres of contiguous Forest Area described as a Conservation Attribute in Exhibit B and as identified on Exhibit E. *[Note to Drafter: remove this definition from Article IV if a Forest Stewardship Plan is not required]*

- N. “Grantees” means the [*Insert Land Trust Name*], and any successor or assign.
- O. “Grantors” means the current fee simple owner(s) of the Property, their successors, personal representatives, heirs, and assigns, and all future owners of the Property.
- P. “Gross Floor Area” means the area of a Structure calculated by first multiplying the exterior footprint of the portions of the Structure with multiple stories by the number of stories with windows and then adding the exterior footprint of any portions of the Structure with one story, including, but not limited to, porches, but excluding unenclosed decks, basements and attics.
- Q. “Industrial” means activities related to the large-scale manufacture, predominantly from raw materials, of finished non-Agricultural products or parts which may include the processing, fabrication, assembly, treatment, packing, storage, or distribution of such products, as well as mining activities and processing of gravel, cement, or similar products.
- R. “Lien” means a mortgage, lien, or other encumbrance securing the payment of money.
- S. “Lienholders” means any person who has a Lien on the Property including but not limited to all mortgagees, all beneficiaries and/or trustees of deeds of trust, and other creditors.
- T. “Means of Access” means gravel or paved driveways, lanes, farm roads, and parking areas meant to carry vehicular traffic to allowed uses and Structures.
- U. “Mitigation and Conservation Banking” means current or future programs with state or federal agencies or private entities intended to provide incentive or compensation for the conservation of rare, threatened, or endangered species or communities by protecting or enhancing their habitats, or for other environmental preservation or enhancement efforts (such as Wetland mitigation, carbon credit, and similar programs).
- V. “Original Grantors” means the Grantors who signed this Conservation Easement on the date set forth above.
- W. “Passive Recreation” or “Passive Recreational” as the context may require, means low-impact activities conducted outdoors, including, by way of example and not by way of limitation, nature study, orienteering, hunting, fishing, hiking, kayaking, canoeing, sailing, boating, horseback riding, camping, and cross-country skiing.
- X. “Private” means the intensity of activity that could reasonably be expected in proportion to the number of residents that would typically occupy the allowed Dwelling Unit(s) on the Property.
- Y. “Provisions” means the covenants, terms, conditions and restrictions in this Conservation Easement.

Z. “Structure” means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

AA. “Utilities” means non-Commercial utilities to serve allowed uses and Structures on the Property and includes, but is not limited to, satellite dishes, electric power lines and facilities, sanitary and storm sewers, septic systems, cisterns, wells, water storage and delivery systems, telephone and communication systems, and renewable energy systems, including, but not limited to: solar energy devices; geothermal heating and cooling systems; wind energy devices; systems based on the use of Agricultural byproducts and waste products from the Property to the extent not prohibited by governmental regulations; and other renewable energy systems not otherwise prohibited by law.

BB. “Vegetation” means trees, shrubs, grasses or other vegetation.

CC. “Wetlands” means portions of the Property defined by Maryland law or federal law as wetlands at the time of the proposed activity.

## **ARTICLE V. LAND USE AND STRUCTURES ON THE PROPERTY**

A. General. This Article sets forth specific restrictions and prohibitions, as well as allowed activities, uses and Structures on the Property encumbered by this Conservation Easement. In addition to the specifically enumerated Provisions described below, other uses of the Property that are otherwise consistent with the Conservation Purposes of this Conservation Easement are allowed.

B. Reserved Rights Exercised to Minimize Damage. All rights reserved by Grantors and activities not prohibited by this Conservation Easement shall be exercised so as to prevent or to minimize damage to the Conservation Attributes and Conservation Purposes including: water quality, air quality, land/soil stability and productivity, wildlife habitat, scenic and cultural values, and the natural topographic and open space character of the Property.

C. Agricultural Uses and Activities. Agricultural uses and activities allowed by local, state, and federal law are allowed on the Property on a Commercial and a non-Commercial basis as set forth in Article V.D.

D. Commercial Uses and Activities. The following Commercial uses and activities are allowed only if they are limited in scale to those appropriate to the size and location of the Property and as long as they do not materially and adversely affect the Conservation Purposes and Conservation Attributes:

1. Commercial activities conducted within allowed Structures, Buildings, or Dwelling Units on the Property provided that the intensity or frequency of the activity or use does not materially and adversely affect the Conservation Purposes and Conservation Attributes;

2. seasonal or occasional outdoor Commercial activities that are accessory to the Agricultural uses of the Property such as: hay rides, corn mazes, farm animal petting zoo, pick your own produce, and sale of Agricultural products produced off of the Property but associated with such seasonal or occasional activities such as the sale of apple cider at one of the above-referenced activities;
3. production, processing and sale within an allowed Structure of Agricultural products and derivatives, a majority of which are sourced from the Property or another property owned by Grantors;
4. Commercial services related to equestrian sports, events, and shows, boarding, the training of horses/ponies and riders, and the provision of recreational or therapeutic riding opportunities;
5. Commercial, Passive Recreational uses operated by a resident of a Dwelling Unit on the Property, or by the Grantors. Structures associated with these uses must be allowed according to Article V.F(3) below. Commercial Passive Recreational uses shall be limited to a *de minimis* amount;
6. Commercial Ecosystems Services Marketing and Commercial Mitigation and Conservation Banking, with the approval of Grantees as per Article V.Q. and Article VII;

The following Commercial uses and activities are prohibited:

7. Industrial activities and uses are prohibited;
8. Commercial, small-animal kennel operations are prohibited; and
9. athletic fields and golf courses are prohibited.

E. Private, Passive Recreational Uses and Activities. Private, Passive Recreational uses and activities are allowed on the Property but shall be limited in scale to those appropriate to the size and location of the Property and shall not impact Conservation Attributes.

F. Structures, Buildings, Dwelling Units, and Means of Access. Structures, Buildings, Dwelling Units, and Means of Access are prohibited on the Property, unless such development rights are reserved to the Grantors as stated within this section or included among those listed in Exhibit C:

1. \_\_\_\_\_ ( ) Dwelling Unit(s). The/An allowed Dwelling Unit may be remodeled, renovated, replaced, or maintained without the prior written approval of Grantees. The/A Dwelling Unit may not exceed a Gross Floor Area of \_\_\_\_\_ ( ) square feet. The location or relocation of the/a Dwelling Unit must be contained completely within the Building Area

depicted and described on Exhibit G. A Dwelling Unit located within a Structure such as a barn or another, Dwelling Unit shall constitute a Dwelling Unit for purposes of calculating the maximum number of Dwelling Units allowed on the Property pursuant to this Conservation Easement. The total number of all Dwelling Units on the Property shall never exceed \_\_ ( ), inclusive of those \_\_ ( ) Dwelling Units identified in Exhibit C and the location of any new Structure containing a Dwelling Unit shall be subject to Grantees' approval as further set forth in Article VII below.

2. non-residential, accessory Structures designed, constructed, and utilized for the purpose of serving the Dwelling Unit(s), for example: a detached garage; a well house; a boat house; a pool house; or a swimming pool, must be contained completely within the Building Area depicted and described on Exhibit G.
3. non-residential Structures related to hunting such as deer stands or waterfowl blinds, or water-dependent Structures, including piers or docks as long as they do not diminish or negatively impact the Conservation Purposes of the Property;

*[Note to Drafter: make note of any size limitations on non-residential structures here in light of Conservation Purposes and Property topography, etc.]*

4. non-residential Structures designed, constructed, and utilized in connection with the Agricultural uses of the Property must be contained completely within the Building Area depicted and described on Exhibit G. This Provision shall not be construed to allow a Dwelling Unit, even if the Structure is designed, constructed, or utilized for dwelling or residential purposes associated or in conjunction with the Agricultural uses of the Property.

Run in sheds, loafing sheds, open sided haysheds, and other similar small Structures utilized for Agriculture may be located outside the Building Area, shall not be located in the 100 foot Buffer as required by Article V.J., and shall not be located within the Forest Area, provided that: (i) each singular Structure shall not exceed a footprint of 500 square feet; (ii) the Structures and location of such Structures shall not materially and adversely affect the Conservation Purposes and Conservation Attributes, and (iii) said Structures shall not be used for those Commercial uses allowed by Article V.D(1). Grantees may approve larger Structures for Agricultural use located outside of the Building Area for reasons the Grantees determine, in their sole discretion, are sufficient to justify an exception to the prohibition. In such cases the location, type, size and height of the Structure shall be subject to Grantees' approval as further set forth in Article VII below;

5. Means of Access serving the Building Area depicted and described on Exhibit G and other allowed uses; provided, however, that any new Means of Access



is subject to Grantees' approval in accordance with the provisions of Article VII below;

6. fencing, fences, and gates, may be constructed, maintained, improved, removed, or replaced to mark boundaries, to secure the Property, or as needed in carrying out activities allowed by this Conservation Easement, as long as they do not diminish or negatively impact the Conservation Purposes of the Property, and are in accordance with Article V.O. below;
7. Structures allowed pursuant to Article V.Q.; and
8. Structures identified on Exhibit C located within the Building Area at the time of the grant of this Conservation Easement, if any, can be modified, renovated, or replaced as long as such alterations do not increase the Gross Floor Area of the Structure beyond the maximum Gross Floor Area allowed in F(1) or F(4) above nor cause the Structure to encroach on the Property beyond the boundaries of the Building Area.

G. Utilities. Grantors may repair and replace existing Utilities and may install new Utilities that are sized and designed solely to serve the Property but may not do so for the purpose of facilitating development, use, or activities on an adjacent or other property. Cellular communication Structures are prohibited. Solar energy devices are allowed to be installed on an allowed Building or, with approval of Grantees pursuant to Article VII, on a Structure that is not a Building. To the extent allowed by law, any net excess generation produced by allowed renewable energy installation(s) may be credited to the Grantors' utility bill or sold to the utility and shall not constitute an impermissible Commercial activity.

H. Grants to Others Across and Upon the Property. No right-of-way for utilities or roadways shall be granted across the Property in conjunction with any industrial, commercial, or residential use or development of an adjacent or other property not protected by this Conservation Easement without the prior written approval of both Grantees, as per Article VII. Other conservation easements such as forest easements and wetland easements, as well as overlay easements pursuant to Article V.Q. may only be granted to any person or government agency in, on, over, or under the Property with the prior written approval of Grantees per Article VII.

I. Subdivision. The division, partition, subdivision, or boundary line adjustment of the Property, including the lease of any portion less than one hundred percent (100%) of the Property for a term in excess of twenty (20) years ("Subdivision," or "Subdivided" as the case may be), is prohibited. Grantees, may, however, approve the Subdivision of the Property for reasons which Grantees determine, in their sole discretion, are sufficiently extraordinary to justify an exception to the prohibition. No such approved Subdivision may result in any portion of the Property being removed from this Conservation Easement.

J. Buffer Requirements. A one-hundred (100) foot Buffer along each side of the \_\_\_\_\_ River (Creek, etc...) measured from the mean high water line [*Note to*

*Drafter: as appropriate or if a non-tidal waterbody replace “mean high water line” with “bottom of the bank”]* is required on the Property. Grantors shall maintain such Buffer if it currently exists, or allow it to naturally revegetate or plant such Buffer strip with native species. Once established, Grantors shall not disturb such Buffer, except when reasonably required for: (1) erosion control; (2) Passive Recreational uses which require water access and associated Structures, subject to Grantees’ approval, per Article VII; (3) access to the water for irrigation of the Property; (4) control of non-native and invasive species by means of mowing or removal of dead, diseased, or infested trees as provided for in Article V.L.; (5) access to portions of the Property which are accessible only by crossing the water body; (6) livestock stream crossings in accordance with an approved Soil and Water Conservation Plan prepared by the Soil Conservation District; (7) enhancement of Wetlands, wildlife habitat or water quality; and (8) the existing \_\_\_\_\_ [*Note to Drafter: list existing Structure(s) located within the Buffer*], as described in Exhibit C. Seasonal mowing of portions of the Buffer that are native warm or cool season grasses not dominated by woody vegetation as a means of maintaining native warm or cool season grasses does not constitute a prohibited disturbance. Grantors shall not store manure or compost nor use or deposit pesticides, insecticides, herbicides or fertilizers (except for revegetation or planting of native species, or control of invasive or diseased species) within the Buffer. The Buffer shall comply with Article V.O. of this Conservation Easement.

K. Wetlands. The diking, draining, filling, dredging or removal of Wetlands is prohibited. The creation, restoration and maintenance of Wetlands and man-made ponds is allowed with all necessary and appropriate state or local permits. The maintenance of Agricultural drainage ditches is allowed.

L. Forest Management. In the Forest Areas shown and depicted on Exhibit E there shall be no burning, mowing, cutting, removal, grazing, livestock access, plowing, tilling or destruction of Vegetation unless: (i) it is in compliance with a Forest Stewardship Plan as required by this section and the FIDS Guidelines; (ii) it is in accordance with the Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland, prepared by the Maryland Department of Environment, or comparable provisions of any guidelines, regulations or other requirements which may replace the Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland in the future; and (iii) said activity does not undermine the Conservation Purposes and Conservation Attributes of the Property. Conversion of a forest to non-forest land is prohibited in the Forest Areas. Within one year of the recordation of this Conservation Easement, Grantors shall obtain a Forest Stewardship Plan for any active management in the Forest Areas of the Property. The Forest Stewardship Plan must at all times be reasonably current, but in no event more than fifteen (15) years old. The Forest Stewardship Plan shall be prepared by either the Maryland Department of Natural Resources Forest Service, or by a forester licensed and registered in Maryland. The Forest Stewardship Plan shall be reviewed and approved by Grantees. A copy of the Forest Stewardship Plan shall be provided to Grantees no later than thirty (30) days after its completion. The primary objective of the Forest Stewardship Plan shall be \_\_\_\_\_ [*insert from list provided at the end of this Model*]. At a minimum, the Forest Plan shall include:

1. an inventory of any physical and natural features of the Property (including wetlands, streams, water bodies, roads, trails, public use areas, special plant and

wildlife habitats, rare or unique species and communities, and other environmentally sensitive features) including any features identified in this Conservation Easement;

2. a vegetation map and possibly a soils map and topographic map;
3. an access plan for the Property, including all areas to be commercially managed;
4. erosion control measures, specifically addressing water bodies and Wetland areas; and
5. management strategies for sensitive habitats such as riparian areas (including the need to leave cover over water bodies and plans for the control or removal of invasive and exotic species and dead, diseased, or infested trees), rare, endangered or threatened species habitat, steep slopes, and the features identified in the inventory described in (1) above.

*[Note to Drafter: If the contiguous Forest Area does not warrant a Forest Stewardship Plan requirement or if no Forest Area exists on the Property then remove this Article V.L. and replace with the Alternative Language for Article V.L. provided at the end of this Model]*

M. Dumping. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, hazardous or toxic substances, dredge spoils, industrial and commercial byproducts, effluent and other materials on the Property is prohibited, whether by Grantors or third parties. Soil, rock, other earth materials, vegetative matter, or compost may not be placed except when reasonably required for: (1) Agriculture or other allowed uses on the Property; (2) the construction and/or maintenance of Structures, Buildings, Dwelling Units, and Means of Access allowed under this Conservation Easement; or (3) erosion control. This Conservation Easement does not allow or require Grantees to become an operator or to control any use of the Property that may result in the treatment, storage, disposal, or release of hazardous materials within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

N. Excavation; Surface and Sub-surface Extraction. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, sand, surface or sub-surface water or other material substance in a manner that would affect the surface or alter the topography of the Property is prohibited, whether by Grantors or third parties, except for: (1) the purpose of combating erosion or flooding; (2) Agriculture or other allowed uses on the Property; (3) Wetlands or stream bank restoration; or (4) the construction and/or maintenance of allowed Structures and associated Utilities, Means of Access, man-made ponds and wildlife habitat. Grantors shall not sell, transfer, lease, or otherwise separate any mineral rights, currently owned or later acquired, from the surface of the Property. Surface and sub-surface mining is prohibited.

O. Visual Screening. In order to maintain the scenic view of the Property from \_\_\_\_\_ set forth as a Conservation Attribute in Exhibit B, Grantors shall not erect, construct, assemble, or plant visual screening, including but not limited to stockade fences, tall

berms, and dense hedges, that would, in Grantees' sole discretion, substantially block views of the Property from such public roadways or waterways.

P. Signage. No billboard, sign, or advertisement on or over the Property shall exceed sixteen (16) square feet. Multiple signs shall be limited to a reasonable number, shall be placed at least five hundred (500) feet apart, and shall be placed in accordance with applicable local regulations, except that signs that address hunting, fishing, or trespassing (including signs or blazes on trees) may be placed the lesser of one hundred (100) feet apart or the distance required by law and in such cases shall not be larger than six (6) square feet.

Q. Ecosystems Services, Ecosystems Services Marketing, and Mitigation and Conservation Banking. If Grantors wish to develop or enhance existing Ecosystems Services on the Property, Grantors may do so by installing vegetative treatments and by excavating, filling and grading for forest or grassland establishment, erosion control measures, streambed or stream bank restoration, habitat restoration or wetland creation or restoration; provided, however, that such actions must be consistent with the Conservation Purposes of the Property as they are identified in this Conservation Easement. If Grantors wish to create wetlands in an upland area, Grantors may do so only if Grantors have verified through a third-party that such area has either historical or current evidence of two or more of the following: (a) hydric soils; (b) hydrophytic vegetation; or (c) wetland hydrology. In connection with such activities, Grantors may construct new Structures (including but not limited to dams, weirs, water flow control gates) but not new Buildings. Grantors reserve the right to enter into agreements whereby Grantors agree to manage or allow a third party to manage the natural resources associated with the Property in a specific manner consistent with this Conservation Easement. Overlay conservation easements implemented pursuant to this Provision are subject to approval by Grantees per Article VII. Grantees will not subordinate this Conservation Easement to an overlay conservation easement. With approval of Grantees as further set forth in Article VII below, Grantors may engage in Ecosystems Services Marketing and/or Mitigation and Conservation Banking on the Property on a Commercial basis.

R. Soil Conservation and Water Quality Plan. Within one (1) year of the date of recordation of this Conservation Easement, Grantors shall have a Soil Conservation and Water Quality Plan prepared and approved by the local Soil Conservation District that, identifies resource concerns related to soil erosion and water quality and shall include a schedule of implementation of best management practices to address any resource concerns identified. The Soil Conservation and Water Quality Plan shall be updated by Grantors and the local Soil Conservation District upon any change in the Property's land use practices or management, or every ten (10) years. Grantors shall provide a copy of the Soil Conservation and Water Quality Plan and any revisions to the Soil Conservation and Water Quality Plan to Grantees. Grantors hereby authorize the Soil Conservation District to release to Grantees information contained in Grantors' Soil Conservation and Water Quality Plan, or any other information applicable to the Provisions of this Conservation Easement.

## **ARTICLE VI. DUTIES AND WARRANTIES OF GRANTORS**

A. Continuing Duties of Grantors. Grantors agree that they will protect the

Conservation Purposes and Conservation Attributes of the Property and that they will notify Grantees in writing before undertaking an activity on the Property not expressly prohibited by this Conservation Easement that may have a significant, adverse effect on the Conservation Purposes or Conservation Attributes. As to violations arising from the acts or omissions of third parties, the Grantors agree that they have a duty and responsibility to take all reasonable actions, to prevent or halt third parties from violating this Conservation Easement. Grantors agree they have a duty and responsibility to restore the Property to a condition in compliance with this Conservation Easement. Grantees shall have a right to enforce this Conservation Easement directly against the Grantors if Grantors fail to cooperate with Grantees in all reasonable respects to halt, abate, or remediate a violation resulting from such acts or omissions or fails to promptly report a known or suspected violation to the Grantees.

B. Notice of Change of Ownership as Required by State Law. Grantors shall notify Grantees in writing of the names and addresses of any person to whom the Property, or any part thereof, is sold or conveyed as required by Maryland Code, Ann. Real Property Art. §10-705(f).

C. Reference to Deed of Conservation Easement. Grantors agree to make specific reference to this Deed of Conservation Easement in a separate paragraph of any subsequent deed or other legal instrument by which any interest in the Property is conveyed.

D. Subordination. Grantors warrant to Grantees that the Property, is, as of the effective date of this Conservation Easement, free and clear of Liens, or, if it is not, that Grantors have obtained the legally binding subordination of the Liens affecting the Property as of the effective date of this Conservation Easement. Grantors have provided, or shall provide, a copy of this Conservation Easement to all Lienholders already affecting the Property or which will affect the Property prior to the recording of this Conservation Easement and shall also provide notice to Grantees of all such Liens. Each of the Lienholders has subordinated, or shall subordinate prior to recordation of this Conservation Easement, its Lien to this Conservation Easement either by signing a subordination instrument contained at the end of this Conservation Easement which shall become a part of this Conservation Easement and recorded with it, or by recording a separate subordination agreement pertaining to any such Lien.

E. Real Property Taxes. Except to the extent provided for by federal, state or local law, nothing in this Conservation Easement shall relieve Grantors of the obligation to pay taxes in connection with the ownership or transfer of the Property.

F. Warranties. The Original Grantors who signed this Conservation Easement on the date set forth above are the sole owner(s) of the Property in fee simple and have the right and ability to convey this Conservation Easement to Grantees. The Original Grantors warrant that the Property is free and clear of all rights, restrictions, and encumbrances other than those subordinated to this Conservation Easement or otherwise specifically agreed to in writing by the Grantees. The Original Grantors warrant that they have no actual knowledge of any use or release of hazardous waste or toxic substances on the Property that is in violation of a federal, state, or local environmental law and will defend, indemnify, and hold Grantees harmless against any claims of contamination from such substances. The Original Grantors warrant that Exhibit C is an exhaustive list of all Structures on the Property.

G. Multiple Owners or Multiple Lots. If different Grantors own separate lots within the Property, only the Grantor that owns the lot in violation will be held responsible for the violation. If more than one Grantor owns the lot in violation of the Provisions of this Conservation Easement, the Grantors of the lot in violation are jointly and severally liable for the violation regardless of the form of ownership.

## **ARTICLE VII. GRANTEE APPROVAL PROCESS**

A. Grantee Approval for Contingent Reserved Rights. As described in this Conservation Easement, Grantors must give written notice to Grantees before taking certain actions on the Property or exercising certain reserved rights. In specific circumstances described herein, Grantees must first give their approval upon their sole determination that such action(s) will not adversely affect the perpetual duration of the Conservation Purposes and Conservation Attributes of the Property. These specified circumstances include, but are not limited to:

1. location of any new Structure containing a Dwelling Unit and conversion of an existing Structure to contain a Dwelling Unit, as per Article V.F(1);
2. confirmation of the Gross Floor Area of any Structure containing an allowed Dwelling Unit, as per Article V.F(1);
3. location, type, size and height of Structure proposed to be located outside the Building Area with footprint larger than 500 square feet, as per Article V.F(4);
4. location, configuration, and dimensions of any new or re-located Means of Access as per Article V.F(5);
5. location, configuration, and dimensions of a parking area and Means of Access for allowed uses, including those uses allowed by Article V.D(2), as per Article V.F(5);
6. location, configuration, and dimensions of a solar panel on a Structure that is not a Building, as per Article V.G. or approval of a Structure the sole purpose of which is to hold a solar panel;
7. location, configuration, and dimensions of access across the Property for utilities or roadways serving another property, as per Article V.H.;
8. Subdivision of the Property, as per Article V.I.;
9. Structures associated with Passive Recreational water uses, located within the 100-foot Buffer strip, as per Article V.J(2);
10. use of the Property for Commercial Ecosystems Services Marketing or Mitigation and Conservation Banking, as per Article V.Q.; and
11. notice of potential use per Article VI.A.

B. Requirements for Grantors' Request for Approval. Grantors' request for approval shall be in writing and shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity or use in sufficient detail to allow the Grantees to make an informed determination regarding approval or denial of the request. Grantors shall submit such plats, maps, Subdivision plans, drawings, photographs, written specifications, or other materials as Grantees may request. Such materials shall be submitted prior to any start of construction and in advance of, or concurrent with, application for permits from federal, state, or

local governments. Grantees will not approve a request for a Subdivision if Grantees have not received written consent of all persons who hold a property interest in the portion of the Property subject to the request.

C. Grantees' Response to Grantors' Request for Approval. Grantees have the sole right to approve or deny any request in their sole discretion upon a determination that the proposed action or land use would negatively impact protected Conservation Purposes and Conservation Attributes of the Property. Grantees shall respond to the request within ninety (90) days after receipt of the request unless the time for consideration is extended by mutual agreement of the parties. If any Grantee does not respond to the request within ninety days of submission, such non-response shall be deemed a constructive denial by such Grantee. A constructive denial is not a decision by Grantees on the merits of Grantors' request, it is not final or binding on Grantees, and Grantors may resubmit the same or a similar request for approval.

## **ARTICLE VIII. GRANTEES' RIGHTS AND DUTIES REGARDING STEWARDSHIP AND ENFORCEMENT OF THE CONSERVATION EASEMENT**

A. Right of Inspection of Property. Grantees, their employees and agents, have the right to enter the Property for the purpose of inspecting and surveying the Property to assess compliance with this Conservation Easement. Grantors specifically grant permission to the Grantees to photograph and video-record the Property, Structures, and activities being conducted upon the Property. During such inspection, Grantees may inspect the interior of Buildings and Structures allowed by Article V.F(2), (3), and (4) for the purpose of determining compliance with this Conservation Easement. If a dispute arises between Grantees and Grantors as to whether a Building or Structure is a Dwelling Unit which would not otherwise be allowed by this Conservation Easement, such Building or Structure shall be deemed to contain a Dwelling Unit unless proven otherwise by the Grantors at the Grantors' sole expense. Grantees may also monitor the Property at any time and without notice using aerial imagery obtained in compliance with state and federal law.

B. Remedies for Grantees Upon Violation of Conservation Easement. Upon any violation, or upon notice of imminent violation, of this Conservation Easement, and after notice to Grantors and allowance of time to cure, Grantees may seek any legal or equitable remedy, together with all associated costs and fees, including, but not limited to:

1. a lawsuit to seek injunctive relief to specifically enforce the Provisions of this Conservation Easement, to restrain present or future violations, and to compel restoration of natural resources and Conservation Attributes destroyed or altered as a result of the violation;
2. an order that the Property and any natural resources and Conservation Attributes destroyed or altered because of the violation be restored promptly to the condition required by this Conservation Easement at the expense of the Grantors; and
3. a money judgment together with interest as allowed by applicable law upon a

judicial determination that a violation of the Provisions of this Conservation Easement has caused irreparable harm to the Conservation Purposes.

C. Imminent Harm. No notice or cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to a Conservation Attribute or other feature of the Property described and subject to the perpetual protection of this Conservation Easement.

D. Grantees' Remedies Are Cumulative. Grantees' remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantees at law or equity. If a Grantee is the prevailing party in any action against Grantors to enforce or defend this Conservation Easement, Grantors shall reimburse Grantees for any costs or expenses incurred by Grantees to enforce, enjoin, defend, or cure a breach of the Conservation Easement, including court costs, mediation costs, litigation expenses, including but not limited to survey, appraisal, and expert costs and reasonable attorneys' fees. If Grantors ultimately prevail in a judicial enforcement action and receive a court order that there has been no easement violation, each party shall bear its own costs and expenses and neither party shall seek court orders to pay their own costs or expenses.

E. No Waiver or Estoppel. No failure or delay on the part of Grantees to enforce any Provision of this Conservation Easement shall discharge or invalidate such Provision or any other Provision or affect the right of Grantees to enforce the same in the event of a subsequent breach or default. The failure or delay of the Grantees, for any reason whatsoever, to take any action required or contemplated hereunder or to discover a violation or initiate an action to enforce this Conservation Easement or any other action shall not constitute a waiver, laches, or estoppel.

F. Independent Enforcement Authority. Each Grantee has independent authority to enforce the Provisions of this Conservation Easement. If the Grantees do not agree as to whether the Grantors are complying with the Provisions, each Grantee may proceed with enforcement actions without the consent of the other Grantee.

G. Right to Interpret the Conservation Easement. The grant of this Conservation Easement to Grantees vests in Grantees the right to interpret the Provisions of this Conservation Easement, and at the request of the Grantors, to provide Grantors with an explanation of the application of the Provisions to then-existing, proposed, or reasonably foreseeable conditions, activities, or other impacts on the Property.

## **ARTICLE IX. BASELINE DOCUMENTATION REPORT**

A. By their signatures to this Conservation Easement, the parties acknowledge that the Baseline Documentation Report attached to this Conservation Easement consisting of Exhibits A – G, adequately, accurately, and clearly describes and depicts: (1) the Property; (2) the Conservation Purposes and Conservation Attributes of the Property; and (3) the public benefits gained from the restrictions placed on the Property. This Baseline Documentation Report establishes the conditions of the Property encumbered by this Conservation Easement as



of the effective date of this Conservation Easement. Grantors acknowledge the Baseline Documentation Report will be used by Grantees to monitor and enforce the Conservation Easement and to ensure that any changes to the Property or use of the Property are consistent with the Provisions of this Conservation Easement. Grantors acknowledge the Baseline Documentation Report will be recorded in the Land Records of the County in which the Property is located and that it will thereby become part of the public record. The use of the Baseline Documentation Report does not preclude Grantees from using other evidence to establish existing conditions of the Property in the event of a dispute. All the following Exhibits are incorporated into and made a part of this Deed of Conservation Easement:

1. **Exhibit A:** Boundary Description and Property Reference is attached hereto and made a part hereof. Exhibit A consists of \_\_\_\_ (\_\_\_\_) pages.
2. **Exhibit B:** Conservation Purposes and Attributes is attached hereto and made a part hereof. Exhibit B consists of \_\_\_\_ (\_\_\_\_) pages.
3. **Exhibit C:** Inventory of Existing Structures is attached hereto and made a part hereof. Exhibit C consists of \_\_\_\_ (\_\_\_\_) pages.
4. **Exhibit D:** Color Digital Images of the Property are attached hereto and made a part hereof. Exhibit D consists of a list of the image numbers, vantage points, and image descriptions consisting of \_\_\_\_ (\_\_\_\_) pages, a photo point map, and \_\_\_\_ (\_\_\_\_) color digital images.
5. **Exhibit E:** Aerial Photograph and Topographic Map of the Property are attached hereto and made a part hereof. Exhibit E consists of two (2) pages.
6. **Exhibit F:** Tax Map Showing Approximate Location of Property is attached hereto and made a part hereof. This is to be used only by Grantees as an aid for locating the Property. It is not a plat or legal description of the Property. Exhibit F consists of one (1) page.
7. **Exhibit G:** Building Areas is attached hereto and made a part hereof. Exhibit G consists of \_\_\_\_ (\_\_\_\_) pages.

A complete, color scanned copy of this Baseline Documentation Report as recorded in the land records, as well as the original digital image files of Exhibit D are kept on file at the principal office of the \_\_\_\_\_ and as required by law

#### **ARTICLE X. JUDICIAL EXTINGUISHMENT, CONDEMNATION, PROCEEDS, AND AMENDMENT OF THE CONSERVATION EASEMENT**

A. Grantees' Easement Percentage Interest. Grantors and Grantees agree that the grant of this Conservation Easement and the restrictions contained herein gives rise to a property right immediately vested in Grantees that has a fair market value at least equal to the proportionate value that the perpetual conservation restriction on the effective date of this grant

bears to the value of the Property as a whole as set forth in 26 CFR § 1.170A-14(g)(6)(ii). The Grantees' easement percentage interest remains constant.

B. Judicial Extinguishment. A judicial proceeding is the exclusive manner in which a perpetual conservation restriction may be extinguished, and only if a subsequent unexpected change in the conditions surrounding the Property that is the subject of this Conservation Easement has made the continued use of the Property for Conservation Purposes impossible or impractical. In the event of extinguishment of the Conservation Easement, Grantees are entitled to their share of the proceeds of any subsequent sale, exchange or involuntary conversion of the Property formerly subject to this Conservation Easement according to the Grantees' Easement Percentage Interest in the property as a whole, as determined and as required under 26 CFR § 1.170-A-14(g)(6)(ii).

C. Condemnation. In the event of a condemnation of the Property, the payment of proceeds to the Grantees shall be no less than Grantees' Easement Percentage Interest and payment of proceeds to the fee owner shall be subject to Md. Code Ann., Real Property § 12-104(g). If condemnation of a part or all of the Property by a public authority threatens the perpetuity of this Conservation Easement, or a Grantee determines that there is a risk of condemnation, then Grantees may, at their option, join in the negotiations or proceedings at any time to object to the taking and to recover the full value of Grantees' easement percentage interest in the Property and all incidental or direct damages resulting therefrom.

D. Proceeds and Grantees' Use of Proceeds. If this Conservation Easement is terminated in whole or in part by judicial extinguishment or condemnation, Grantees shall be entitled to a percentage of the gross sale proceeds or condemnation award equal to the full value of its Easement Percentage Interest, which is the proportionate value that the perpetual conservation restriction on the effective date of this grant, bore to the value of the Property without deduction for the value of the Conservation Easement on that date, the interest remaining constant over time. Such proceeds received by Grantees shall be used in a manner consistent with the Conservation Purposes of the original contribution. When Grantors pay such proceeds to the Grantees, the payment shall not be later than the subsequent sale, exchange or involuntary conversion of the property, whichever occurs first. The Grantees must use the proceeds in a manner consistent with 26 USCA § 170(h)(4)(A).

E. Amendment. Grantees and Grantors may amend this Conservation Easement to enhance the Property's Conservation Purposes or add real property subject to this Conservation Easement by an amended, or by an amended and restated deed of conservation easement. Grantees have no obligation under this Conservation Easement, or otherwise, to (1) agree to any amendment; or (2) consult or negotiate regarding any amendment. No amendment shall be made that would: (1) affect the perpetual duration of this Conservation Easement or the perpetual protection of its Conservation Purposes; (2) create an impermissible private inurement or private benefit in violation of federal tax law; (3) allow development, improvements, or uses prohibited by this Conservation Easement on its effective date unless, in Grantees' sole discretion, such development, improvement, or use, either on its own or in conjunction with other measures required by Grantees, is determined to enhance the Conservation Attributes, is consistent with the Conservation Purposes of this Easement, complies with Section 170(h) of the IRC and any

regulations promulgated pursuant to such section, and complies with all applicable federal, state and local laws; (4) conflict with or be contrary to or inconsistent with the Conservation Purposes of this Conservation Easement; (5) reduce the protection of the Conservation Purposes; or (6) affect the status of a Grantee as a “qualified organization” or “eligible donee.” For purposes of this Section, the terms impermissible private benefit and inurement shall have the same meanings ascribed to them in IRC Section 501(c)(3) and associated Treasury Regulations. Grantees shall not consent to any amendment of this Conservation Easement unless Grantors submit a written request for amendment pursuant to Grantees’ existing amendment policy and such amendment otherwise qualifies under Grantees’ policy then in effect respecting conservation easement amendments. An amendment is subject to and dependent upon approval by the Maryland Board of Public Works and must be executed and recorded in accordance with State law among the Land Records in the jurisdiction where this Conservation Easement is recorded.

## **ARTICLE XI. MISCELLANEOUS**

A. No Representation of Tax Benefits. The Grantors represent, warrant, and covenant to Grantees that Grantors have not relied upon information or analyses furnished by Grantees with respect to either the availability, amount, or effect of a deduction, credit, or other benefit to Grantors under applicable law or the value of the Conservation Easement or the Property. Grantors have relied solely upon their own judgment and/or professional advice furnished by appraisal, legal, financial, and accounting professionals engaged by the Grantors. If a person providing services in connection with this Conservation Easement or the Property was recommended by Grantees, the Grantors acknowledge that Grantees are not responsible in any way for the performance of services by those persons. The grant of this Conservation Easement is not conditioned upon the availability or amount of a deduction, credit, or other benefit under applicable law.

B. Assignment. Each Grantee may assign, upon prior written notice to Grantors, its rights under this Conservation Easement to any “qualified organization” within the meaning of Section 170(h)(3) of the IRC. Any such successor shall be a “qualified organization” within the meaning of Section 170(h)(3) of the IRC. No assignment may be made by any Grantee of its rights under this Conservation Easement unless Grantee, as a condition of such assignment, requires the assignee to carry out the Conservation Purposes.

C. Compliance with Other Laws. The Grantors agree and acknowledge that the provisions of this Conservation Easement may impose greater restrictions upon the Property than local, state, or federal law. The Provisions of this Conservation Easement do not replace, abrogate or otherwise set aside any local, state or federal laws, requirements or restrictions imposing further limitations on the use of the Property. In the event that any applicable state or federal law imposes affirmative obligations on owners of land which if complied with by Grantors would be a violation of a Provision of this Conservation Easement, Grantors shall: (i) if said law requires a specific act without any discretion on the part of Grantors, comply with said law and give Grantees written notice of Grantors’ compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time Grantors begins to comply; or (ii) if said law leaves to Grantors’ discretion how to comply with said law, use the method most protective of the Conservation Purposes of the Property listed herein and in Exhibit B and give Grantees

written notice of Grantors' compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time Grantors begin to comply.

D. Construction. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Maryland. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be construed in favor of protection of the Conservation Purposes and to promote the purposes of the statutes creating and governing the *[Insert Land Trust Name]*.

E. No Extinguishment Through Merger. Grantors and Grantees agree that if the Grantees, or their successors or assigns, come to own all or a portion of the fee interest in the Property, then the Grantees shall have the benefit of and be bound by the terms of the Conservation Easement and the obligations of the Grantors, and that this Conservation Easement shall survive and not be extinguished in whole or in part through the doctrine of merger or unity of title for the purpose of protecting the public interest in the enforcement and perpetual duration of this Conservation Easement. Should Grantees come to own all or any portion of the underlying fee interest in the Property while they hold this Conservation Easement, this Conservation Easement shall remain effective and Grantees shall be bound by its terms.

F. Entire Agreement and Severability. This is the entire agreement of Grantors and Grantees pertaining to the subject matter of this grant. The Provisions of this Conservation Easement supersede in full all statements and writings between Grantors and Grantees pertaining to the transaction set forth in this Conservation Easement.

G. Joint and Several. If Grantors at any time own the Property in joint tenancy, tenancy by the entireties, or tenancy in common, all such tenants shall be jointly and severally liable for all obligations set forth in this Conservation Easement.

H. Recordation and Effective Date. Grantees shall record this instrument in a timely fashion among the Land Records of \_\_\_\_\_ County, Maryland and may re-record it at any time. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Deed of Conservation Easement is recorded in the Land Records of \_\_\_\_\_, County Maryland.

I. Notice. Any notices by Grantors to Grantees pursuant to any Provision hereof shall be sent by regular mail addressed to:

XYZ Land Trust, Inc.  
123 Fake Street  
Anytown, Maryland 21658

Or shall be emailed, which shall include a confirmation by the recipient that the email was received, to:

xxxxxxx@xxxx.org

or to such other addresse(s) as Grantees may establish.

Notice to Grantors shall be satisfied by regular mail to the address of the Grantors, or the Property, or by electronic mail to the Grantors.

J. Counterpart Signatures. The parties may execute this Conservation Easement in two or more counterparts by any means authorized by state law, which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling. Signatures, including notary signatures, provided by electronic means including, by way of example and not of limitation, facsimile, Adobe, PDF, and sent by electronic mail, or via an electronic signature program, shall be deemed to be original signatures as long as they are affixed in compliance with state law.

K. Plural and Singular. This Conservation Easement is based upon a form that assumes there are multiple Grantors and multiple Grantees. In the event that this assumption is wrong for this Conservation Easement, then, as appropriate, any Provision assuming multiple Grantors or Grantees shall be interpreted to mean only one Grantor or Grantee, as the case may be. In addition, Article VIII. F shall be disregarded when there is only one Grantee.

TO HAVE AND TO HOLD unto the [*Insert Land Trust Name*], their successors and assigns, forever. The covenants agreed to and the terms, conditions, and restrictions imposed as aforesaid shall be binding upon Grantors, their survivors, agents, personal representatives, heirs, assigns and all other successors to them in interest, and shall continue as a servitude running in perpetuity with the Property.

AND Grantors covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the interest in the Property hereby conveyed; that they will warrant specially the Property granted and that they will execute such further assurances of the same as may be requisite.

SIGNATURES ON THE FOLLOWING PAGES

IN WITNESS WHEREOF, Grantors and Grantees have hereunto set their hands and seals the day and year above written.

GRANTOR:

\_\_\_\_\_(SEAL)  
Name

STATE OF MARYLAND, \_\_\_\_\_ of \_\_\_\_\_, TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me the subscriber, a Notary Public of the State aforesaid, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be a Grantor of the foregoing Deed of Conservation Easement and acknowledged that he/she/they/it executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

ACCEPTED BY GRANTEES:

XYZ LAND TRUST, INC.,  
a Maryland nonprofit corporation

BY: \_\_\_\_\_ (SEAL)    DATE: \_\_\_\_\_  
John Doe  
President

Deed of Conservation Easement  
\_\_\_\_\_, Grantors  
[Insert Land Trust Name], Grantees

**BASELINE DOCUMENTATION REPORT**  
**[MONTH] [DAY], 20\_\_**

A color scanned copy of this Baseline Documentation Report is kept on file at the principal office of the [Insert Land Trust Name].

EXHIBIT A	Boundary Description and Property Reference
EXHIBIT B	Conservation Purposes and Attributes
EXHIBIT C	Inventory of Existing Structures
EXHIBIT D	Color Digital Images of the Property and Photo Point Map
EXHIBIT E	Aerial Photograph and Topographic Map of the Property
EXHIBIT F	Tax Map Showing Approximate Location of Property
EXHIBIT G	Building Areas

This Baseline Documentation Report was prepared by \_\_\_\_\_, a [Insert Land Trust Name] ("Preparer"). The Preparer has been employed at the [Insert Land Trust Name] for \_\_\_\_\_ years and has been trained to document property specific information necessary to develop this Baseline Documentation Report. [Insert Qualifications]

\_\_\_\_\_  
Signature of Preparer

\_\_\_\_\_  
Date

---

Signature of Grantors

---

Date

Sample



Deed of Conservation Easement  
*[John C. Smith and Jane F. Smith]*  
Boundary Description and Property Reference  
Exhibit A  
Page One of \_\_\_\_\_

*[The legal description of the Property is to be inserted here.]*

Deed of Conservation Easement  
*[John C. Smith and Jane F. Smith]*  
Conservation Purposes and Attributes  
Exhibit B  
Page One of \_\_\_\_\_

This Exhibit describes in detail the Conservation Attributes of the Property that are protected pursuant to the Conservation Purposes of this Conservation Easement.

General Physical Description of the Property

*[insert details according to the property, as appropriate include dominant species in the forest, age and type of forest, wetland type, areas of previous disturbance, etc..]*

Conservation Attributes Listed According to the Conservation Purposes

*[insert detailed information and remove according to the property; include how the conservation easement will protect said attributes and include, as appropriate, the dates of Grantees' Board approvals.]*

1. Preservation of Open Space
  - a. Scenic Enjoyment of the General Public and Will Yield a Significant Public Benefit
  - b. Pursuant to a Clearly Delineated Federal, State, or Local Government Conservation Policy and Will Yield a Significant Public Benefit
2. Protection of a Relatively Natural Habitat of Fish, Wildlife, Plants, or similar Ecosystems
3. Preservation of an Historically Important Land Area or a Certified Historical Structure
4. Preservation of Land Areas for Outdoor Recreation by, or education of, the general public (substantial and regular use)
5. Adjacent to Other Protected Lands

Deed of Conservation Easement  
*[John C. Smith and Jane F. Smith]*  
Inventory of Existing Structures  
Exhibit C  
Page One of One

1. Dwelling Unit (\_\_\_\_\_ in size; depicted in Image \_\_\_\_ of Exhibit D)  
Allowed by Article V.F(1)
2. Non- residential Structure (depicted in Image \_\_\_\_\_ of Exhibit D)  
Allowed by Article V.F(2)
3. Non- residential Structure (depicted in Image \_\_\_\_\_ of Exhibit D)  
Allowed by Article V.F(3)
4. Agricultural Structure (depicted in Image \_\_\_\_\_ of Exhibit D)  
Allowed by Article V.F(4)

*[Note: Exhibit D should include a photo of all existing Structures listed in Exhibit C].*

## Page One of One

**Image File Name:** *County-Grantor-BLYEARMonthday-(Image #).jpg*

*[Note: Samples of maps for Exhibits D, E, F and G are not included in this sample document]*

***NOTE TO DRAFTER: DELETE THIS PAGE PRIOR TO DRAFTING***

**Land Trust Model Deed of Conservation Easement – Alternative Language**

***Common Ownership: Article V.I.:***

Use when the Property consists of more than one tax or deed parcel. Insert the following as the first sentence of the section and add “Common Ownership and” before Subdivision in the heading.

“The \_\_\_\_ ( ) separate parcels that constitute the Property (*provide list of tax parcels here – tax map \_\_, parcel \_\_, tax map \_\_, parcel \_\_, etc...; or provide statement about the presence of \_\_\_\_ separate deed parcels*) shall remain in common ownership as if the Property were only one (1) parcel.”

***Buffer: Article V.J.:***

If no waterbody or shoreline exists on the Property then remove the text and insert “Intentionally Omitted” for Article V.J. This will preserve all the cross references that follow in the document.

***Forest Management: Article V.L.:***

- Choices for objective for the Forest Stewardship Plan. Choose one of the five and insert into the blank in the first paragraph of Article V.L.:
  1. “timber production”
  2. “management of habitat for fish and wildlife game species
  3. “Trail and Passive Recreation management” (*if this is to be the objective of the Forest Plan, ensure that the definitions of Trail and Passive Recreation are included and consistent between the Conservation Easement document*)
  4. “natural heritage protection, meaning the preservation and enhancement of native species diversity, habitat and water quality, with particular emphasis on the conservation of FIDS habitat” AND/OR “Delmarva Fox Squirrel habitat” OR “other rare, threatened, or endangered species”
  5. “soil conservation and water protection”
- If the Land Trust determines that a Forest Stewardship Plan is **not** required then replace all the existing text of Article V.L. with the following for Article V.L.:

“Forest Management. Management and harvesting of all forests on the Property shall be consistent with the Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland, prepared by the Maryland Department of Environment, or comparable provisions of any guidelines or regulations which may replace the Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland in the future and as they may be amended from time to time.”

***DELETE THIS PAGE PRIOR TO DRAFTING***