

**UNRESTRICTED LOT  
FRPP**

**NOTICE TO TITLE EXAMINERS: THIS DEED OF EASEMENT CONTAINS COVENANTS THAT INCLUDE RESTRICTIONS ON THE USE, SUBDIVISION AND OFF-CONVEYANCE OF LAND.**

File #:

THIS DEED OF EASEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_ parties of the first part, Grantor (s), and \*\*\*\*\* , Deed of Trust Beneficiary, party of the second part and the STATE OF MARYLAND, to the use of the Department of Agriculture on behalf of the Maryland Agricultural Land Preservation Foundation, party of the second part, Grantee, and containing covenants intended to be real covenants running with the land,

WITNESSETH:

WHEREAS, Subtitle 5 of Title 2 of the Agriculture Article, Annotated Code of Maryland, created the Maryland Agricultural Land Preservation Foundation for the purpose of preserving agricultural land and woodland; and

WHEREAS, by authority of Agriculture Article, Section 2-504, Annotated Code of Maryland, the Grantee may purchase agricultural preservation easements to restrict land to agricultural use; and

WHEREAS, the Grantor owns the hereinafter described tract(s) or parcel(s) of land (hereinafter referred to as "the land"), and desires to sell an agricultural preservation easement to the Grantee to restrict the land to agricultural use.

*WHEREAS, the land currently contains \_\_\_% of prime, unique, and statewide important soils (by the USDA's Soil Conservation Service Land Classification System) as identified by the Natural Resources Conservation Service (NRCS) as well as open space, collectively "Conservation values," and such conservation values as well as the state of improvement and current uses of the land are documented in a baseline documentation report maintained in the offices of the Grantee, which may be used in an enforcement action to establish non-compliance with the terms of the Easement; and*

*WHEREAS, the Grantor acknowledges that as a recipient of federal funds from the Farm and Ranch Lands protection Program (16 U.S.C. 3838h and 3838i) administered by the NRCS on behalf of the United States, they are subject to Federal provisions set forth herein.*

NOW, THEREFORE, in consideration of the sum of \_\_\_\_\_ and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor for the Grantor(s), the successors, personal representatives and assigns of the Grantor, does grant and convey, to the State of Maryland, for the use of the Grantee, its successors and assigns, an agricultural preservation easement in, on and over the hereinafter described tract(s) or parcel(s) of land, subject to the covenants, conditions, limitations and restrictions hereinafter set forth, so as to constitute an equitable servitude thereon, that is to say:

All those certain tract(s) or parcel(s) of land, situate, lying and being in \_\_\_\_\_ County, Maryland and being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART

HEREOF

BEING

AND the Grantor covenants for and on behalf of Grantor, the personal representatives, successors and assigns of the Grantor, with the Grantee, its successors and assigns, to do and refrain from doing upon the above described land all and any of the various acts set forth, it being the intention of the parties that the said land shall be preserved solely for agricultural use in accordance with the provisions of the Agriculture Article, Title 2, Subtitle 5, Annotated Code of Maryland, and that the covenants, conditions, limitations and restrictions hereinafter set forth, are intended to limit the use of the land and are to be deemed and construed as real covenants running with the land.

I. PURPOSE

It is the purpose of this Easement to enable the land to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural value, character, use and utility, and to prevent any use or condition of the land that would impair or interfere with its agricultural value, character, use or utility, consistent with the intent of the Maryland General Assembly under Agriculture Article Title 2 Subtitle 5 of the Annotated Code of Maryland.. To the extent that the preservation of open space of the land is consistent with such use, it is within the purpose of this easement to protect that open space.

II. COVENANTS, CONDITIONS, LIMITATIONS AND RESTRICTIONS

Subject to the Reservations hereinafter contained, the Grantor for the Grantor, the

heirs, personal representatives, successors and assigns of the Grantor, covenants and agrees as follows:

A. Agricultural Use

1. Except as otherwise provided in this instrument, the land is restricted solely to agricultural use and may not be used for any commercial, industrial, or residential use or purpose, or for any use that temporarily or permanently impairs or interferes with the land's agricultural value, character, use or utility, unless prior approval is obtained from the Grantee.
2. No rights-of-way, easements, oil, gas or mineral leases, or other similar servitude may be conveyed, or permitted to be established on the land for any commercial, industrial or residential use, without the Grantee's express written permission.
3. Unless written approval is first obtained from the Grantee, no easement or other restriction may be granted to any person or government agency in the land subject to this deed of easement.
4. No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the land; provided, however, the Grantor reserves the right to erect signs not exceeding 4 feet x 4 feet for each of the following purposes:
  - a. to state the name of the land and the name and address of the occupant;

- b. to advertise any home or ancillary occupations consistent with the purposes of this easement subject to the approval of the Grantee; and
  - c. to advertise the land's sale or rental, to forbid trespassing or hunting, to identify the land's protected status under this Deed of Easement, or to support a political candidate, all as further regulated by local laws.
5. No ashes, sawdust, bark, trash, rubbish or any other material may be dumped on the land, except that used in normal agricultural practices.
  6. The land shall be managed in accordance with sound agricultural soil and water conservation practices so as to promote the agricultural capability of the land; also, woodland shall be managed in accordance with sound forestry practices; provided, however, the Grantor reserves the right to selectively cut or clear cut from time to time trees which will not alter the agricultural character of the land or diminish its productive capability.
  7. *As required by section 1238l of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect on the signed date of this Easement and shall be implemented according to a schedule of*

*implementation contained within the plan, which exists at the time of easement settlement. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.*

- 8. In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations. If the NRCS standards and specifications for highly erodible land are revised after the date of this Grant based on an Act of Congress, NRCS*

*will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.*

9. The Grantor shall acquire, implement, and maintain a Forest Stewardship Plan in accordance with the Management Practice Schedule of the Plan, if at any time the land contains 25 acres or more of contiguous forest.
10. During regular business hours, the Grantee *and/or the United States* or their respective authorized representatives will have the right to enter on the land from time to time for the sole purpose of inspection and enforcement of the easement, covenants, conditions, limitations and restrictions herein contained, provided, however, that the Grantee *and/or the United States* will have no right to inspect the interior of any structures on the land, unless otherwise required by the terms of any subsequent agreements between the parties or their assigns hereto or approvals by the Grantee.
11. Upon sale or transfer of any interest in the land, including, but not limited to a leasehold interest, life estate, term of years, or remainder interest, the

Grantor, his personal representatives, successors and assigns shall notify the Grantee in writing of the name and address of the party receiving the interest in the land.

12. *The total impervious surface, including concrete and asphalt paving and permanent, non-seasonal rooftops, does not exceed 2% of the total area under this Easement.*

B. No Subdivision or Development Rights Transfer

1. The division, partition or subdivision ("division") of the land for any purpose, including off conveyance and boundary line adjustment, is prohibited, unless written approval has first been obtained from the Grantee. Notwithstanding the fact that the land subject to this Deed of Easement may comprise existing subdivided parts (whether separately described parcels or government assigned tax parcels or accounts), it is the intent of the Grantor and the Grantee that the total of the parts remains in common ownership. To that end, the Grantor may not sell, transfer, off convey, devise, give, bequeath, donate, or otherwise divide, any existing or future subdivided part or parts separately from the total of the parts, whether voluntarily, involuntarily, or by reason of foreclosure or bankruptcy. However, the Grantee may approve a division of the total of the parts of the land and separate ownership of a part or parts of the land for reasons which the Grantee, in its sole discretion, deems sufficiently

extraordinary to justify an exception to the prohibition against division.

For purposes of this subparagraph, the terms, "divide" and "division" shall include the lease of any part or parts less than 100% of the total parts of the land for a term in excess of twenty (20) years.

2. Except as provided in Section IV herein, all development rights associated with the land are hereby extinguished. No development rights from the land may be transferred to another area, or to another person, or to a political subdivision, notwithstanding any prior agreement to the contrary; nor may the land be used for the purpose of calculating permissible lot yield of any other property. In addition, Grantor agrees that it shall not be permitted to develop the within described property based on any existing, retained, or after acquired development rights, except for that which the Grantee has given approval in accordance with Section IV herein.

### III. RESERVATIONS IN THE GRANTOR

Provided that the Purpose of the Easement as specified under Section I is fulfilled, the Grantor reserves the right to use the land for any farm use, and to carry on all normal farming practices, including the operation at any time of any machinery used in farm production or the primary processing of any agricultural products; the right to conduct upon the land any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation directly

relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the land. *In addition, the Grantor reserves the right to engage in any undeveloped recreation activity such as hiking, bird watching, and hunting as long as such activities are carried out in a manner consistent with the purposes of this Easement.*

#### IV. LOT RELEASE FROM EASEMENT

It is the purpose of this section to limit development rights to maximize the preservation of the agricultural land.

##### A. Unrestricted Lot Release

The Grantor, or subsequent landowner, has the right to apply at any time for release of one (1) unrestricted lot from this easement, to be retained by the Grantor or subsequent landowner, or conveyed to anyone, to construct one (1) residential dwelling, subject to the following conditions:

1. The resulting density on the property shall be less than the density allowed under zoning of the property before the Foundation purchased the Easement;
2. The Grantor shall pay the Grantee for any acreage released at the price per acre that the Grantee paid the Grantor for the easement, provided that the Maryland Agricultural Land Preservation Foundation's Board of Trustees has the right to approve the size, location and configuration of the parcel(s) so released from easement; it being the intent that the agricultural use of the land not be impaired by said partitions;

3. The Grantor or subsequent landowner shall agree not to subdivide further for residential purposes any acreage allowed to be released, and the agreement shall be recorded among the Land Records where the Land is located and shall bind all future owners;

B. Application for Lot Release

Before a lot may be released from an easement's restrictions for the construction of a dwelling house, under Section IV.A. above, the landowner shall submit an application to the Grantee that:

1. The landowner has signed;
2. Includes signed statements indicating approval of the release from the local agricultural land preservation advisory board and confirmation from the county planning and zoning department that the proposed lot appears to meet local zoning regulations;
3. Includes a description of the land to be excluded and affected by both the dwelling and access to that dwelling, so as to gauge the impact that the dwelling and any access to that dwelling will have on the agricultural operations of the farm; and
4. Includes a property outline indicating the location of the proposed lot.

C. Release

After certifying that the landowner has met the conditions provided herein, and a survey plat with metes and bounds description has been submitted to the

Grantee, the Grantee shall issue a Release which shall be recorded among the land records where the land is located at the landowner's expense and shall bind all future owners. Such Release shall contain restrictions as specified in Agriculture Article, Section 2-513, Annotated Code of Maryland, as amended from time to time.

D. Existing Dwelling

On written request to the Grantee, a landowner, may exclude from the easement restrictions a lot surrounding a single dwelling house, which existed as of the date of this Deed of Easement, as the Unrestricted Lot to which the Grantor or subsequent landowner is eligible under Section IV.A. above, by a land survey and recordation provided at the expense of the landowner or landowner's personal representatives, successors or assigns. However, before any exclusion is granted, the landowner shall agree with the Grantee not to subdivide further any acreage to be released and said agreement shall be recorded among the land records where the land is located and shall bind all future owners.

E. Tenant Houses

1. Subject to the Grantee's approval and the provisions of COMAR Title 15 Subtitle 15, the Grantor, or its successors and assigns in the fee ownership of the land (hereinafter referred to as the "landowner"), may construct housing for tenants fully engaged in operation of the farm, but this construction may not exceed one (1) tenant house per full 100 acres (for example, one (1) tenant house for 100-199 acres; two (2) tenant houses for

200-299 acres). The land on which a tenant house is constructed may not be subdivided or conveyed to any person, nor may the tenant house be conveyed separately from the land, as governed by Section II.B.1. herein. The land under and surrounding the tenant house shall not be released from the Easement, it being understood that the tenant house is an accessory structure to the agricultural use of the farm and as such its use is intended to be consistent with the Purpose stated herein.

2. The Landowner shall make written application to the Grantee that
  - a. the landowner has signed;
  - b. contains a declaration that the tenant house is necessary for the operation of the farm and is only for the use of tenants fully engaged in operation of the farm;
  - c. is accompanied by evidence that demonstrates the need for a full-time tenant for the operation of the farm;
  - d. includes signed statements from the local agricultural land preservation advisory board that the tenant house is necessary for the operation of the farm and confirmation from the county planning and zoning department that the proposed tenant house appears to meet local zoning regulations;
  - e. includes a description of the land to be affected by both the tenant house and access to that tenant house, so as to gauge the impact that

- both will have on the agricultural operations of the farm;
- f. Includes a scaled plan for the tenant house, and accompanying outbuildings, including the square footage thereof; and
  - g. includes a map showing the location of the proposed tenant house.
3. For purposes of this subparagraph, the terms below are defined as follows:
- a. "Tenant" shall be defined as a natural person or persons fully engaged in operation of the farm, and who are not the landowner, and/or who do not have a financial interest in the landowner, including a shareholder interest, partnership interest or membership interest, full, limited, or otherwise.
  - b. "Tenant house" means an accessory structure in which the tenant resides consisting of no more than 2000 square feet, unless provided otherwise by the Foundation, 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, but excluding basements, attics, porches not used as a living space, garages, and unenclosed decks.

V. TERM

This easement shall be in perpetuity.

## VI. BREACH

If the easement or any covenant, condition, limitation, restriction or other provisions herein contained is violated or breached, the Grantee may after due notice to the Grantor, the Grantor's personal representatives, successors or assigns, institute an action in equity to enjoin, by ex parte, temporary or permanent injunction, such violation or breach; to require the restoration of the above described land to its condition prior to such violation or breach (including, but not limited to, re-conveyance of title to land conveyed in violation of covenants herein); to recover damages; to impose civil penalties; and to take such other legal action as may be necessary to insure compliance with the easement and the covenants, conditions, limitations and restrictions or other provisions herein contained.

## VII. MISCELLANEOUS PROVISIONS

- A. If the Grantor has any doubts concerning the easement, covenants conditions, limitations or restrictions herein contained with respect to any particular use of the said land, the Grantor may submit a written request to the Grantee for consideration and approval of such use.
- B. This easement does not grant the public any right to access or any right of use of the above described land.
- C. Nothing herein contained shall relieve the Grantor, the Grantor's personal representatives, successors or assigns of the obligation to pay real estate taxes.
- D. As used herein the singular form of a word includes both the singular and plural, the plural form of a word includes both plural and singular, and reference to

words of certain gender includes reference to all genders.

- E. The provisions of this Deed of Easement shall be governed by the laws of the State of Maryland and the parties hereby expressly agree that the courts of the State of Maryland shall have jurisdiction to decide any question arising hereunder after all administrative remedies have been exhausted.
- F. No determination by any court, governmental body or otherwise that any provision of this Deed of Easement is invalid or unenforceable in any instance shall affect the validity or enforceability of (1) any other such provision, or (2) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.
- G. *The following Exhibits are incorporated herein and made a part hereof: 1) Exhibit A – Legal Description, and 2) Exhibit B-Inventory of Existing Structures, Landscape Description, and Unique Features. The Grantor acknowledges that these Exhibits reflect the existing status of the land hereby encumbered as of the date hereof.* Notwithstanding any provision herein to the contrary, the \_\_\_\_\_ dwelling(s) existing as of the date of this Deed of Easement may be used for any lawful purpose (e.g. for residential purposes), unless otherwise prohibited by local zoning.
- H. *The Grantor shall indemnify and hold harmless Grantee and the United States, for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees,*

*penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by and on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Property, which may arise from, but is not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Deed, or violations of any Federal, State, or local laws, including all Environmental Laws, as defined below.*

- I. *“Environmental Law” of “Environmental Laws” means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communications, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect. “Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious*

*materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.*

AND the Grantor further covenants that the Grantor has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that the Grantor will warrant specially the property interest hereby conveyed; and that the Grantor will execute such further assurances of the same as may be required.

Contingent Right in the United States of America

*In the event that the Grantee fails to enforce any of the terms of this easement (or other interests in the land), as determined in the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the easement through any and all authorities available under Federal or State law.*

*In the event that the Grantee attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interest of this easement or extinguish the conservation easement, without the prior consent of the Secretary of the United States Department of Agriculture and payment of consideration to the United States, then, at the option of such Secretary, all right, title and interest in this Easement shall become vested in the United States of America.*

SUBORDINATION PROVISIONS

Deed of Trust

\_\_\_\_\_ in its capacity as Beneficiary under a Deed of Trust dated (insert date of Deed of Trust) and recorded among the aforesaid Land Records in Liber No. \_\_\_\_\_, folio \_\_\_\_\_, hereby joins in the execution of this Deed of Easement for the sole purpose of agreeing to subordinate and do hereby subordinate to this Deed of Easement the Deed of Trust Lien from Grantor.

**OR**

Mortgage

(Insert name of lender) hereby joins in the execution of this Deed of Easement for the sole purpose of agreeing to subordinate to this Deed of Easement, and hereby does subordinate to this Deed of Easement the mortgage lien from Grantor dated \_\_\_\_\_ and recorded among the aforesaid Land Records in Liber No. \_\_\_\_\_, folio \_\_\_\_\_.

AS WITNESS the hands and seals of the Grantor(s), and Deed of Trust Beneficiary [or Mortgagee].  
WITNESS/ATTEST:

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

STATE OF MARYLAND, COUNTY OF \_\_\_\_\_, 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 \_\_\_\_\_, known to me (or satisfactorily proven) to be the Grantor whose name is subscribed to the within Deed of Easement and acknowledged that he/she/they executed the same for the purposes therein contained in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

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

STATE OF MARYLAND, COUNTY OF \_\_\_\_\_, 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 \_\_\_\_\_, known to me (or satisfactorily proven) to be the Grantor whose name is subscribed to the within Deed of Easement and acknowledged that he/she/they executed the same for the purposes therein contained in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal.

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

STATE OF MARYLAND, COUNTY OF \_\_\_\_\_, 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 \_\_\_\_\_, who acknowledged himself/herself to be the \_\_\_\_\_(vice)President of \*\*\*\*\*, a corporation, and as such being authorized so to do executed the foregoing Deed of Easement for the purposes therein contained by signing the name of the corporation by himself/herself as \_\_\_\_\_(vice)President.

AS WITNESS my hand and Notarial Seal.

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

*Acceptance of Property Interest  
by The Natural Resources Conservation Service*

*The Natural Resources Conservation Service, an agency of the United States Government hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed therein, on behalf of the United States of America.*

*THE NATURAL RESOURCES CONSERVATION  
SERVICE UNITED STATES DEPARTMENT OF  
AGRICULTURE*

*By: \_\_\_\_\_  
Name:  
Title:*

*STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, To Wit:*

*I HEREBY CERTIFY that, on this \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_, before me, the subscriber, a Notary Public of the State and County aforesaid, appeared \_\_\_\_\_, who acknowledged him/herself to be the \_\_\_\_\_ of The Natural Resources Conservation Service, United States Department of Agriculture, and that he, as such \_\_\_\_\_, being authorized to sign on behalf of the agency, executed the same for the purposes therein contained, by signing the name of the agency by himself, as \_\_\_\_\_.*

*AS WITNESS my hand and Notarial Seal.*

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

THIS IS TO CERTIFY that the within instrument was prepared by the undersigned, an attorney admitted to practice before the Court of Appeals of Maryland.

\_\_\_\_\_  
Maryland Assistant Attorney General