

SECTION I - PURPOSE

The purpose of this Easement is to preserve and protect the Conservation Values in perpetuity by imposing the Restrictions on the use of the Property set forth in Section II and providing for their enforcement in Section III. More specifically, Grantor and Grantee acknowledge that the purpose of this Easement is to apply the following principal and secondary objectives to the Property:

A. The principal objectives of this Easement are to assure in perpetuity:

1. That sustainable forest management practices will be observed, operating as a covenant that will run with the Property, thus making available continuous supplies of forest products and natural benefits such as clean air and water and wildlife habitat.
2. That productive forest resources will be established and maintained on the Property.
3. The long-term, silviculturally-sound management of those resources in a manner that minimizes negative impact and the duration of impact on surface water quality, wildlife habitat, and the other Conservation Values.

B. The additional objectives of this Easement are to encourage sustainable management of soil and water resources and to conserve the watershed, natural habitat, scenic, agricultural, historic, and open space Conservation Values as described in the above Recitals and documented in the Baseline Documentation Report (the "BDR") described in Section IV below.

SECTION II - RESTRICTIONS

Restrictions are hereby imposed on the use of the Property pursuant to the public policies set forth above. The acts that Grantor covenants to do and not to do upon the Property, and the restrictions that Grantee is hereby entitled to enforce, are and shall be as follows:

1. **DIVISIONS:** The Property shall not be divided or subdivided into, or separately conveyed as, more than two (2) parcels. For purposes of this Easement, division of the Property includes, but shall not be limited to, creating a subdivision plat, judicial partitioning of the Property, testamentary partitioning of the Property, or pledging for debt of a portion of the Property. Grantor shall give Grantee written notice prior to making any division of the Property.

The parties acknowledge that widening or improvement to SR 39 may be necessary and may require expansion of the current right of way. The acquisition of a *de minimis* portion of the Property adjacent to said public right of way for minor road improvements by either voluntary conveyance or eminent domain shall not be considered a division or subdivision of the Property, and neither the acquisition of such a *de minimis* portion of the Property nor the use of the portion of the Property so acquired shall be prohibited by this Easement, provided that Grantee approves in writing such conveyance or taking, which approval shall be contingent upon the project including all reasonable actions, such as landscaping or topographic improvements, to minimize the project's impact on the Property and prevent harm to its Conservation Values. If not approved,

then the conveyance or taking shall be subject to the provisions of Section 10.1-1704 of the Open-Space Land Act. Grantor reserves its separate rights to approve such acquisition. Use of the Property for such a project is limited to the widening or minor improvement of the aforementioned road in its present alignment, by a maximum additional width of twenty-five (25) feet on either side of the road, as measured from the edge of the existing right-of-way. For the purpose of this paragraph "minor road improvements" include, but may not be limited to, maintenance, correction, repair, or upgrading of the existing public road. "Minor road improvements" does not include the addition of new travel lanes or relocation of the roadbed. Any portion of the Property acquired from Grantor pursuant to this paragraph shall remain subject to the terms and restrictions of this Easement.

2. **DWELLINGS, STRUCTURES, ROADS, AND UTILITIES:** No buildings, structures, roads or utilities other than those specified in this Paragraph 2 are permitted on the Property. For the purpose of this Paragraph, a "Dwelling" shall be defined as a building or structure, or a portion of a building or structure, such as a residence, cottage, cabin (improved or unimproved), or barn or garage apartment, used or intended to be used for permanent, temporary, seasonal, or periodic human habitation by one or more persons or families. "Above-ground footprint" shall be defined as the total area occupied by a Dwelling or structure at the ground level or above, including but not limited to porches, decks, patios, attached garages, overhangs, or other impervious surface.

A. DWELLINGS AND STRUCTURES

(i) Two (2) "Dwellings", neither of which exist as of the Effective Date. Such Dwellings shall not individually exceed 4,000 square feet of above-ground footprint or forty (40) feet in height as measured from lowest point of final grade to highest ridge of roof without Grantee's prior review and written approval, which approval shall take into consideration the impact of the size, height and siting of the proposed Dwelling on the scenic and other Conservation Values.

In the event of division of the Property as provided in Section II, Paragraph 1, one (1) Dwelling shall be allocated to each permitted parcel in the instrument creating the division or other recorded instrument. Only one (1) Dwelling shall be allowed per parcel.

(ii) Outbuildings and structures commonly and appropriately incidental to the Dwellings permitted in subparagraph (i) of this paragraph, and sized appropriately to serve as amenities to residential use, provided that the non-residential outbuildings and structures for each permitted Dwelling shall be located within 200 feet of the Dwelling, and the aggregate footprint of the non-residential outbuildings for each permitted Dwelling shall not exceed 2,000 square feet in ground area unless prior, written approval shall have been obtained from Grantee that a larger footprint is permitted considering the purpose of this Easement and the scale of the proposed outbuilding or structure in relation to the surrounding area.

(iii) Farm buildings or structures, except that a farm building or farm structure exceeding 4,500 square feet in ground area may not be constructed on the Property unless prior written approval for the building or structure shall have been obtained from Grantee, which

approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the Conservation Values. For purposes of this subparagraph, a farm building or structure shall mean a building or structure originally constructed and used for the activities specified in Section II Paragraph 3, subparagraph A or B.

(iv) Small-scale miscellaneous structures, the existence of which is consistent with the conservation purposes of this Easement and which will not impair the Conservation Values, such as hunting stands, wildlife observation structures, fences, boardwalks, or structures for crossing of streams or wetlands. Any such structure shall not exceed 150 square feet in ground area unless prior, written approval shall have been obtained from the Grantee.

Grantor shall have the right to construct new Dwellings, buildings and structures permitted in this Section II, Paragraph 2 and to repair, maintain, renovate and replace all new and existing permitted Dwellings, buildings and structures on the Property, within the limitations set forth in this Easement.

Grantor shall give Grantee thirty (30) days' written notice as provided in Section V, Paragraph 8 before beginning construction (including replacement) or enlargement of any Dwelling or structure permitted by subparagraphs (i) and (iii) on the Property (or, as applicable, before any ground clearing in preparation for such activity).

Nothing contained in this Section II(2)(A) shall obviate the requirements of Grantor, its successors or assigns to comply with applicable local land use and zoning requirements for the construction of any improvements.

B. ROADS

- (i) Private roads and access easements to parcels created by or in conjunction with permitted division of the Property.
- (ii) Private roads or driveways to serve permitted Dwellings or structures.
- (iii) Roads with permeable surfaces for other permitted uses, such as farming or forestry.

The Grantor may not construct any roads with a non-permeable surface or improve any existing roads by placement of a non-permeable surface without the written approval of Grantee.

Construction of any new roads must be done in accordance with either: (i) an approved Plan (defined in Paragraph 5A below); (ii) an approved pre-harvest plan (defined in Paragraph 5B below); or (iii) otherwise upon written approval of Grantee, which approval shall not be unreasonably withheld, conditioned, or delayed. Construction of any new roads and maintenance of existing roads must be done in accordance with applicable Best Management Practices for water quality.

C. UTILITIES

(i) Energy structures used to harness natural renewable energy sources such as sunlight, wind, water, or biomass and scaled to provide electrical energy or pump water for permitted Dwellings, structures, and activities on the Property, which limitation shall not be deemed to prohibit the sale of excess power generated incidentally in the operation of such structures and associated equipment including, but not limited to, solar panels, wind turbines, and micro-hydro installations and such structures, if approved in writing by Grantee, to provide electrical energy to neighboring properties; and

(ii) Public or private utilities to serve permitted Dwellings or structures only and public or private utilities to serve parcels created by permitted divisions of the Property. New public or private utilities that do not serve the Property shall not cross the Property unless Grantee determines that the construction and maintenance of such utilities will not impair the Conservation Values and gives its prior, written approval for such construction and maintenance, which approval shall take into consideration the visibility and other impact of such utilities on the Conservation Values. Grantor reserves its separate rights to approve such public or private utilities.

D. LOCATION RESTRICTIONS

(i) The Dwellings, outbuildings and incidental structures, and farm buildings permitted in Paragraph 2 subparagraphs A(i) through A(iii) above shall not be located outside the "Allowable Building Areas" as shown on Exhibit A, attached hereto and made part hereof, without the prior, written approval of Grantee, which approval shall be limited to consideration of the impact of the siting and other attributes of the proposed Dwellings, structures, or farm buildings on the Conservation Values, particularly, but not limited to preservation of large and contiguous forest blocks, forest fragmentation and edge effect, impact to sustainable forest management, protection of water quality, and impact to natural heritage resources and wildlife habitat.

Exhibit A shows four (4) numbered locations as Allowable Building Areas. The Dwellings, outbuildings and incidental structures, and farm buildings shall be located in no more than two (2) of these numbered locations without the prior, written approval of Grantee.

(ii) No Dwelling or structures permitted in Paragraph 2, subparagraphs A(i) through A(iv) above shall be located within the Habitat Protection Area shown on Exhibit A, unless Grantee approves the location in writing upon demonstration by the Grantor that the natural heritage resources no longer exist on the Property.

(iii) Subject to Grantee's prior review and written approval, the Allowable Building Areas as shown on Exhibit A may be moved if such Allowable Building Areas are found to be unsuitable for septic system and/or private drinking water well, which approval by the Grantee of an alternate site shall be subject to the Grantee's consideration of the impact of such alternate Allowable Building Areas on the Conservation Values.

E. COLLECTIVE FOOTPRINT

(i) The collective footprint of impervious surfaces on the Property is limited by this Easement. For the purpose of this Paragraph, the collective footprint is the ground area measured in square feet of the Dwellings, buildings, and other structures set forth in Section II, Subparagraphs 2A(i) through 2A(v) above and all other impervious surfaces (i.e. patios, swimming pools, tennis courts, basketball courts, etc.) located on the Property, excluding roads.

(ii) The collective footprint on the Property shall not exceed 24,000 square feet, provided that if Grantor can demonstrate that an increase in the collective footprint would result in increased protection of the Conservation Values, Grantee may approve such increase.

(iii) In the event of division of the Property, the collective footprint on each separate parcel shall not exceed 12,000 square feet per parcel unless otherwise allocated in the instrument of transfer or other recorded instrument.

F. DEVELOPED AREAS

(i) The amount of developed area on the Property is limited by this Easement. "Developed Area" is defined as the combined acreage of the collective footprint described above and associated clearings maintained as yard, gardens, landscaping, or other open space other than in forestry, agriculture, or wildlife habitat, excluding roads and driveways.

(ii) The combined Developed Area shall not exceed five (5) acres per permitted parcel, provided that if Grantor can demonstrate that an increase in the Developed Area would result in increased protection of the Conservation Values, Grantee may approve such increase.

3. **INDUSTRIAL OR COMMERCIAL ACTIVITIES:** Industrial or commercial activities are prohibited with the exception of the following:

A. Agriculture (including livestock production), equine activities, and forestry.

B. Small-scale incidental commercial or industrial operations related to activities set forth in (A) above, such as the processing and sale of products produced on the Property, that Grantee approves in writing as being consistent with the purpose of this Easement.

C. Temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property and that do not diminish the Conservation Values.

D. Activities that can be and in fact are conducted within permitted buildings without material alteration to their external appearance.

E. Hunting and fishing, including membership-based hunting and/or fishing clubs, and the sale of permits to guests for hunting and/or fishing.

F. Activities to restore or enhance wetlands or streams or restore, enhance, or develop other ecosystem functions on the Property including, but not limited to, stream bank restoration, wetland and stream mitigation, biological carbon sequestration and biodiversity mitigation, provided that such activities are not in conflict or inconsistent with the conservation purpose of or the restrictions set forth in this Easement and that prior written approval for same shall have been obtained from Grantee. Grantee is not responsible for monitoring any such activities and has no obligation to enforce the provisions of any permit(s), restriction(s), or easement(s) therefor. Subject to Grantee's written approval, Grantor is free to participate in same at Grantor's sole discretion and to retain any remuneration derived therefrom.

4. PRESERVATION OF FOREST ACREAGE: The forested area of the Property shall not be converted to another land cover, except in the following cases:

- A. To accommodate buildings and structures permitted under Paragraph 2 above.
- B. For agricultural or equine uses as provided for in Paragraph 3(A) above.
- C. For providing or improving wildlife habitat.

Notwithstanding the foregoing, in each instance where more than three (3) acres of forest is converted to another use in any ninety (90)-day period, a written forest conversion plan approved in advance, in writing by Grantee, is required. Such forest conversion plan shall be submitted to the Grantee for approval sixty (60) days before beginning the conversion of any forest in excess of three (3) acres as set forth above and shall provide, at a minimum, a description and map of the area to be converted, a description of the land use to be established, and a description of the Best Management Practices to be implemented in connection with the conversion.

In any event and notwithstanding anything contained herein to the contrary or any other provision in this Easement, at least 230 acres of the Property shall remain in forest cover in perpetuity. In the event of a division as provided in Section II, Paragraph 1 described above, the acreage that shall remain as forestland in perpetuity on each resulting parcel shall be allocated in the instrument creating the division or other recorded instrument.

No forest within the Habitat Protection Area (HPA), hereinafter defined in Paragraph 6 below, or the Riparian Buffers hereinafter defined in Paragraph 8 below shall be converted, provided that if Grantor can demonstrate that converting forests within the HPA or Riparian Buffers would result in increased protection of the Conservation Values, Grantee may approve such conversion.

5. FOREST MANAGEMENT:

- A. **FOREST STEWARDSHIP MANAGEMENT PLAN.** All forest management activities conducted on the Property shall be in accordance with an approved Forest Stewardship or multiple resource forest management plan (the "Plan").

(i) The Plan shall be prepared, and reviewed and approved by Grantee as set forth in subparagraphs (ii) and (iii) below, within one (1) year of the Effective Date.

(ii) The Plan shall only be prepared or updated by a forester meeting the qualifications specified in Section 10.1-1181.9 of the Code of Virginia (1950), as amended.

(iii) The Plan and any updates must be approved in writing by Grantee, which approval shall be limited to consideration of whether (1) the Plan accurately and adequately describes the forest conditions of the Property and (2) the recommendations in the Plan comply with sound silvicultural practices and are consistent with the purpose of this Easement.

(iv) The Plan may be updated at any time, and shall be updated within six (6) months after either: (a) a significant change in forest conditions as determined by Grantee or (b) the transfer of all or any part of the Property to a new owner.

(v) The Plan shall acknowledge the globally rare Shale Barren natural community and the Habitat Protection Area shown on Exhibit A and shall provide guidance to avoid or minimize impacts to the Shale Barren and rare species habitat, to include, but not limited to the following: avoid logging and other disturbance within the Shale Barren natural communities, work with DCR-NHP botanists or a qualified consultant to identify and mark locations of rare species prior to timber harvest, minimizing impact to any such locations, and control invasive species after timber harvest.

(vi) The Plan must have been prepared or last updated no more than ten (10) years before any material forest management activity or harvest.

B. PRE-HARVEST PLAN. All material timber harvesting activities, including salvage harvests, conducted on the Property shall be in accordance with an approved pre-harvest plan.

(i) At least thirty (30) days in advance of any material timber harvest or associated activity, a pre-harvest plan consistent with the Plan shall be submitted to Grantee for approval in writing.

(ii) The pre-harvest plan shall be prepared according to Virginia Department of Forestry guidelines, in sufficient detail to protect site, soil, and water quality.

(iii) Upon the approval of the pre-harvest plan by the Grantee, timber harvesting may commence.

(iv) Grantor shall notify Grantee no later than seven (7) days after completion of the harvest.

(v) Notwithstanding any other provision of this Easement, the following activities shall be permitted without a pre-harvest plan or further permission from Grantee: non-commercial,

de minimis harvest of trees for trail clearing, daylighting of forest roads (not to exceed ten (10) feet on either side of the road), firewood for Grantor's domestic use; removal of trees that pose an imminent hazard to human health or safety; and removal of invasive species.

- C. **BEST MANAGEMENT PRACTICES.** Best Management Practices, as defined by the Virginia Department of Forestry ("BMP Guidelines"), shall be used to control erosion and protect water quality when any forestry activity is undertaken.
- D. **FOREST PROTECTION.** The Plan shall include reasonable recommendations to prevent wildfires. The Plan shall likewise address and recommend appropriate measures to prevent or treat damage to the forest caused by disease and insects.
- E. **INVASIVE SPECIES.** No plant species that is listed as a "Highly Invasive Alien Plant Species" by the Virginia Department of Conservation and Recreation, Division of Natural Heritage (or as a highly invasive alien plant species on any successor list promulgated by the Commonwealth of Virginia) shall be purposely introduced onto the Property. The Plan shall include reasonable recommendations for removing or preventing the establishment of such invasive species.
- F. **WOODLAND GRAZING.** The grazing of livestock in the forest shall be prohibited except in areas where Grantee determines that tree growth, water quality, wildlife habitat, and other Conservation Values are not likely to be damaged by such grazing. Such allowed woodland grazing areas, if any, are designated in the BDR; such areas may be designated and/or revised in subsequent addenda to the BDR as described in Section IV.

6. **HABITAT PROTECTION AREA:** To protect the natural heritage resources identified on the Property, a Habitat Protection Area (HPA) is established as shown on Exhibit A attached hereto. The approximate extent of the globally rare Shale Barren natural community is also delineated on Exhibit A.

The following activities are prohibited within both the HPA and shale barren:

- (i) Construction of buildings, structures and utilities, except for tree stands and temporary blinds used for hunting;
- (ii) Soil disturbance, earth moving, and excavation;
- (iii) Broadcast application of pesticides, including herbicides, except hand application of herbicides to control invasive species;
- (iv) Conversion to a non-forest use; and
- (v) Grazing of livestock.

If it is determined that the natural heritage resources no longer exists on the Property or that these restrictions are no longer necessary for its protection, subject to consultation and written approval by the Grantee, the restrictions set forth in this paragraph shall no longer be applicable.

7. **HISTORIC AND SCENIC RESOURCES:** To protect the historic resources that are potentially located on the Property, a No Disturbance Area is established as shown on Exhibit A attached hereto.

The following activities are prohibited within the No Disturbance Area:

- (i) Construction of buildings, permanent structures (not including tree stands and temporary blinds used for hunting), subsurface utilities, or new roads; and
- (ii) Soil disturbance, plowing, earth moving, and excavation.

To preserve the scenic qualities of the Property and viewshed from SR 39, the open field located south of SR 39 and north of Little Back Creek, as identified on Exhibit A as "Open Field", shall be maintained as an open field by mowing, grazing, or other means, except that the area extending 150 feet from the top of the bank of Little Back Creek may be reforested or allowed to revert to forest.

8. **RIPARIAN BUFFERS:** To protect water quality, riparian buffer strips ("Riparian Buffers") shall be maintained along all streams, watercourses, and water bodies as follows:

- A. Within the forested portion of the Property, streamside management zones ("SMZs") shall be maintained as described in the BMP Guidelines and as set forth below. The width of the SMZs shall be a minimum of fifty (50) feet, or as defined in the BMP Guidelines, whichever is greater.
- B. Within the non-forested portion of the Property, a vegetated buffer strip shall be maintained as set forth below. The width of the buffer strips shall be a minimum of fifty (50) feet.

Riparian Buffer widths shall be measured on a horizontal plane from the top of the bank.

- C. **PROHIBITED ACTIVITIES.** The following activities are prohibited within the Riparian Buffers:

- (i) Grazing of livestock.
- (ii) Storage of compost, manure, fertilizers, chemicals, machinery or equipment.
- (iii) Application of fertilizers or biosolids.
- (iv) Removal of trees except: (a) as part of a timber harvest in accordance with the aforementioned Plan, (b) removal of invasive species, (c) removal of dead, diseased or

dying trees, including salvage harvests in response to a natural disaster, such as a tornado, hurricane, wildfire, flood, or other acts of nature, (d) removal of trees posing a human health or safety hazard, and (e) construction of ponds.

(v) Plowing, cultivation, road-building, grading or other earth-disturbing activity, except as may be reasonably necessary for: (a) wetland or stream bank restoration, or erosion control, pursuant to a government permit, (b) establishing or maintaining fencing along or within the buffer area, (c) construction and maintenance of approved stream crossings as provided for in Paragraph 2B above, (d) creation and maintenance of foot or horse trails with unimproved surfaces, and (e) dam construction to create ponds.

(vi) Building construction.

D. PERMITTED ACTIVITIES. The following activities are allowed within the Riparian Buffers:

(i) Planting of native trees, shrubs, or other vegetation.

(ii) Vegetative pruning to improve health and form of existing trees, maintain horse and hiking trails, or improve sightlines from permitted structures.

E. Should any of the watercourses meander or change course naturally, the Riparian Buffers shall remain the same width, but move relative to the movement of the watercourse. In such event, any buildings or structures that were outside of the original buffer strip and are determined to be within the new buffer strip shall not be considered in violation of these restrictions and may be maintained at such locations.

9. **BIOCIDES:** Biocides may be used in the course of forest management in accordance with the Plan, to control invasive species, as a part of agricultural operations, around improvements on the Property, or as needed for general maintenance or pest control. Biocides shall not be applied in any manner that is inconsistent with the purpose of this Easement, or that will negatively affect the Conservation Values. If used, all biocides shall be applied in accordance with all labeling and appropriate safety measures.
10. **GRADING, BLASTING, MINING:** Grading, blasting or earth removal shall not materially alter the topography of the Property except for:
- A. Dam construction, repair, or rehabilitation to create or maintain ponds.
 - B. Wetlands or stream bank restoration pursuant to a government permit.
 - C. Erosion and sediment control pursuant to a government-required erosion and sediment control plan.

- D. Construction of permitted buildings, structures, roads, and utilities. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality during such construction.

Grading, blasting, or earth removal in excess of one-half acre for the purposes set forth in subparagraphs (A) through (D) above require thirty (30) days' prior notice to Grantee. Generally accepted agricultural activities shall not constitute a material alteration.

- E. **PROHIBITED ACTIVITIES.** The following activities are prohibited:

- (i) Surface or subsurface mining.

- (ii) Dredging on or from the Property (except for the purpose of pond construction and maintenance).

- (iii) Drilling for oil or gas on the Property.

- 11. **ACCUMULATION OF TRASH:** Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property, as long as such practices are conducted in accordance with applicable government laws and regulations.
- 12. **SIGNS:** Display of billboards, signs, or other advertisements is not permitted on or over the Property except to:
 - A. State the name and/or address of the owners of the Property.
 - B. Advertise the sale or lease of the Property.
 - C. Advertise the sale of goods or services produced incidentally by a permitted use of the Property.
 - D. Provide notice necessary for the protection of the Property.
 - E. Give directions to visitors.
 - F. Recognize historic status or participation in a conservation program.

Temporary political signs are allowed. Notwithstanding anything contained herein to the contrary, no single sign, visible from outside the Property, shall exceed thirty-two (32) square feet in size without prior Grantee approval. Total signage, visible from outside the Property, excluding boundary line posting signs, shall not exceed sixty-four (64) square feet.