

STATE OF MARYLAND  
COUNTY OF \_\_\_\_\_

## DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this \_\_\_\_ day of  
, 20\_\_, by \_\_\_\_\_ ("Declarant(s)").

### RECITALS

WHEREAS, Declarant(s) *is/are* the owner(s) of certain real property ("*real property*" includes wetlands, any interest in submerged lands, uplands, associated riparian/littoral rights) located in County, Maryland, more particularly described [*describe tract to be preserved, including: 1) acreage, 2) a reference to recorded plat(s), or attach an approved permit drawing or site plan (see Paragraph 9), and 3) any excluded property*] ("Property"); and

WHEREAS, as compensatory mitigation under Federal and State law for Department of the Army Permit No. \_\_\_\_\_ ("Permit") issued by the U.S. Army Corps of Engineers, Baltimore District ("Corps" or "Baltimore District," to include any successor agency), and certification(s) and/or permit(s) issued by the Maryland Department of the Environment ("MDE," to include any successor agency), and in recognition of the continuing benefit to the permitted property, and for the protection of waters of the United States and scenic, resource, environmental, and general property values, Declarant(s) *has/have* agreed to place certain restrictive covenants on the Property, in order that the Property shall remain substantially in its natural condition forever.

NOW THEREFORE, Declarant(s) hereby declare(s) that the Property shall be held, transferred, conveyed, leased, occupied or otherwise disposed of and used subject to the following restrictive covenants, which shall run with the land and be binding on all heirs, successors, assigns (they are included in the term, "Declarant," below), lessees, or other occupiers and users.

1. **Covenants and Restrictions.** Neither the Declarant, nor any subsequent owner or owners of the Property or any portion thereof, shall undertake or cause to be undertaken within or upon the wetland areas located within the Property, as described in (*Recitals and/or the site plan attached pursuant to paragraph 9*), any of the following:
  - a. Removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind,
  - b. Changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics,
  - c. Disturbance of the water level or water table by drainage, impoundment, or other means,
  - d. Dumping, discharging of material, or filling with material, including the driving of piles and placing of obstructions,
  - e. Grading or removal of material that would alter existing topography, or
  - f. Destruction or removal of plant life that would alter the character of a nontidal wetland, or introduction or exotic species.

[if reference is made to the Permit, or to a mitigation plan approved by the Permit, all exceptions (including regarding buffer areas) must be specifically spelled out in the Permit or plan; also, additional, specific exceptions may be listed in this paragraph, e.g., fire or wildlife management plans, boardwalks, etc.].

2. **Duration and Amendment.** The covenants and restrictions listed in herein are created pursuant to the Annotated Code of Maryland, Real Property Article § 2-118 and shall run with and bind the Property, and be binding on the Declarant, its personal representatives, heirs, successors and assigns, unless and until terminated or modified by the Corps, MDE or other Federal, State, or County agencies which have the legal authority to enforce these covenants and restrictions by regulation, permit, or agreement. The failure of the Corps, MDE, or other such agencies to enforce the provisions of this Declaration shall not be deemed a waiver of any rights created hereunder. After recording, these restrictive covenants may only be amended by a recorded document signed by the Corps and MDE and Declarant. The recorded document, as amended, shall be consistent with the Baltimore District model conservation restrictions at the time of amendment. Amendment shall be allowed at the discretion of the Corps and MDE, in consultation with resource agencies as appropriate, and then only in exceptional circumstances. Mitigation for amendment impacts will be required pursuant to Baltimore District mitigation policy at the time of amendment. There shall be no obligation to allow an amendment.

3. **Notice to Government.** Any permit application, or request for certification or modification, which may affect the Property, made to any governmental entity with authority over wetlands or other waters of the United States, shall expressly reference and include a copy (with the recording stamp) of these restrictive covenants.

4. **Reserved Rights.** It is expressly understood and agreed that these restrictive covenants do not grant or convey to members of the general public any rights of ownership, entry or use of the Property. These restrictive covenants are created solely for the protection of the Property, and for the consideration and values set forth above, and Declarant(s) reserve(s) the ownership of the fee simple estate and all rights appertaining thereto, including without limitation the rights to exclude others and to use the property for all purposes not inconsistent with these restrictive covenants.

5. **Compliance Inspections.** The Corps, MDE, and its/their authorized agents shall have the right to enter and go upon the lands of Declarant(s), to inspect the Property and take actions necessary to verify compliance with these restrictive covenants.

6. **Enforcement.** The Declarant(s) grant(s) to the Corps, the U.S. Department of Justice, and/or MDE, a discretionary right to enforce these restrictive covenants in a judicial action against any person(s) or other entity(ies) violating or attempting to violate these restrictive covenants; provided, however, that no violation of these restrictive covenants shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. Nothing herein shall limit the right of the Corps to modify, suspend, or revoke the Permit.

7. **Property Transfers.** Declarant(s) shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any interest in the Property (failure to comply with this paragraph does not impair the validity or enforceability of these restrictive covenants):

NOTICE: This Property Subject to Declaration of Restrictive Covenants Recorded at [insert book and page references, county(ies), and date of recording].

8. **Marking of Property.** The perimeter of the Property shall at all times be plainly marked by permanent signs saying, "Protected Natural Area," or by an equivalent, permanent marking system.

[Paragraph 9 - generally, a surveyed, recorded plat is required; however, at the discretion of the Corps and MDE, an approved permit drawing or site plan attached to these restrictive covenants may suffice]

9. **Consent of Lender and Trustee.** Declarant is the maker of a note dated \_\_\_\_\_ secured by a deed of trust dated \_\_\_\_\_ from the Declarant to \_\_\_\_\_ as trustees and either of whom may act, recorded in the Clerk's office in Deed Book \_\_\_\_\_ at page \_\_\_\_\_, for the benefit of \_\_\_\_\_ Bank (The "Deed of Trust."). \_\_\_\_\_, as trustees, join herein for the sole purpose of subordinating the lien, dignity and priority of the Deed of Trust to these Deed Restrictions. \_\_\_\_\_ Bank joins herein for the sole purpose of consenting to the trustee's actions.

10. **Recording.** The Declarant agrees to record this Declaration in the Land Records of the County and provide the Corps and MDE with proof of recordation within thirty (30) days of recordation. A plat depicting the boundaries of the Property subject to these restrictive covenants shall be recorded in the deed records office for each county in which the Property is situated prior to the recording of these restrictive covenants. The plat(s) *is/are* recorded at [include book and page references, county(ies), and date].

11. **Separability Provision.** Should any separable part of these restrictive covenants be held contrary to law, the remainder shall continue in full force and effect.

IN WITNESS WHEREOF, the Declarant(s) *has/have* duly executed this Declaration of Restrictive Covenants the date written above.

IN THE PRESENCE OF:

Declarant(s)

\_\_\_\_\_  
[type name of witness under signature line]

By:

\_\_\_\_\_  
[type name of individual under signature line]

\_\_\_\_\_  
[type name of witness under signature line]

Its:

\_\_\_\_\_  
[title of signing individual, where applicable]

**STATE OF MARYLAND  
COUNTY OF**

PERSONALLY appeared before me \_\_\_\_\_, the undersigned witness, and made oath that *he/she* saw the within named \_\_\_\_\_ [ *by* \_\_\_\_\_, *its* \_\_\_\_\_, ] sign, seal and as *his/her/its* act and deed, deliver the within named Declaration of Restrictive Covenants; and that *he/she* with the other witness named above witnessed the execution thereof.

\_\_\_\_\_  
[type name of witness under signature line]

SWORN to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 200\_\_.

NOTARY PUBLIC FOR  
My Commission Expires:

IN THE PRESENCE OF:

Trustees/Bank(s)

\_\_\_\_\_  
[type name of witness under signature line]

By:

\_\_\_\_\_  
[type name of individual under signature line]

\_\_\_\_\_  
[type name of witness under signature line]

Its:

\_\_\_\_\_  
[title of signing individual, where applicable]

**STATE OF MARYLAND  
COUNTY OF**

PERSONALLY appeared before me \_\_\_\_\_, the undersigned witness, and made oath that he/she saw the within named \_\_\_\_\_ [ *by* \_\_\_\_\_, *its* \_\_\_\_\_, ] sign, seal and as his/her/its act and deed, deliver the within named Declaration of Restrictive Covenants; and that he/she with the other witness named above witnessed the execution thereof.

\_\_\_\_\_  
[*type name of witness under signature line*]

SWORN to and subscribed before me  
this \_\_\_ day of \_\_\_\_\_, 200\_\_\_.

NOTARY PUBLIC FOR  
My Commission Expires:

I hereby certify this deed was prepared by or under the supervision of \_\_\_\_\_, an attorney admitted to practice by the Court of Appeals of Maryland.

\_\_\_\_\_