

**NOTICE TO TITLE EXAMINERS: THIS DEED OF EASEMENT CONTAINS COVENANTS THAT INCLUDE RESTRICTIONS ON THE USE, SUBDIVISION AND OFF-CONVEYANCE OF LAND. NO PORTION OF THE LAND ENCUMBERED BY THIS EASEMENT MAY BE CONVEYED APART FROM THE REMAINDER OF THE LAND ENCUMBERED BY THIS EASEMENT WITHOUT PRIOR WRITTEN GRANTEE APPROVAL.**

File #

THIS DEED OF EASEMENT ("Easement") made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ ("Grantor"), party of the first part and \_\_\_\_\_, Deed of Trust Beneficiary or Mortgagee, party of the second part, the STATE OF MARYLAND, TO THE USE OF THE DEPARTMENT OF AGRICULTURE on behalf of the MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION, ("Grantee"), party of the third part.

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 and woodland use; and

WHEREAS, the Grantee is a "qualified organization" within the meaning of Section 170(h)(3) of the United States Internal Revenue Code ("IRC"); and

WHEREAS, the Grantor owns the hereinafter described tract or parcel of land (hereinafter referred to as "the Land"), more particularly described in Exhibit A attached hereto; and

WHEREAS, the Land in its present state is agricultural and forest land that has not been subject to development and its significant conservation values are described in Exhibit B ("Conservation Values") attached hereto; and

WHEREAS, to further the preservation and conservation goals of the Grantee and in recognition of the Conservation Values, Grantor desires to grant the Easement to the Grantee to restrict the Land to agricultural use, and intends to make a charitable contribution to the Grantee of the difference between the fair market value of the Easement and the sales price to be paid by the Grantee; and

WHEREAS, Grantee intends hereby to accept this Easement and to hold such Easement exclusively for conservation purposes, as defined in Section 170(h)(4)(A) of the IRC. Grantee, its successors or assigns, are able to monitor and enforce such Easement; and

NOW, THEREFORE, in consideration of \_\_\_\_\_ (\$\_\_\_\_\_), of which \_\_\_\_\_ (\$\_\_\_\_\_) has been contributed by \_\_\_\_\_ County, and in consideration of the facts stated in the above recitals, and the covenants, conditions, limitations and restrictions hereinafter set forth, Grantor for himself, his personal representatives and assigns, unconditionally and irrevocably does grant and convey, to the State of Maryland, for the use of the Grantee, its successors and assigns, this Easement in, on and over the Land, subject to the covenants, conditions, limitations and restrictions hereinafter set forth, in perpetuity, so as to constitute an equitable servitude thereon, that is to say:

All that certain tract or parcel of land, situate, lying and being in \_\_\_\_\_ County, Maryland and being more particularly described on Exhibit A attached hereto and made a part hereof, containing \_\_\_\_\_ acres, more or less.

BEING the same land which by Deed dated \_\_\_\_\_ and recorded among the Land Records of \_\_\_\_\_ County in Liber \_\_\_\_ folio \_\_\_\_\_, was granted and conveyed to \_\_\_\_\_, the Grantor herein.

AND the Grantor covenants for and on behalf of himself, his personal representatives and assigns, with the Grantee, its successors and assigns, to do and refrain from doing upon the Land all and any of the various acts set forth, it being the intention of the parties that the Land shall be preserved solely for agricultural and forestry 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, in perpetuity.

#### ARTICLE I. DURATION OF EASEMENT

This Easement shall be perpetual. It is an easement in gross and as such it is inheritable and assignable in accordance with Article IX, runs with the Land as an incorporeal interest in the Land, and, as provided in Article V below, is enforceable with respect to the Land by Grantee against Grantor, his personal representatives and assigns.

#### ARTICLE II. CONSERVATION PURPOSE

It is the purpose of this Easement to: (1) enable the Land to remain in agricultural and forestry use for the production of food and fiber; (2) preserve and protect in perpetuity its Conservation Values; and (3) prevent any use or condition of the Land that would impair or interfere with its utility as agricultural land and woodland. This purpose is consistent with the intent of the Maryland General Assembly under Agriculture Article Title 2 Subtitle 5 of the Annotated Code of Maryland.

Pursuant to and in compliance with the requirements of Section 170(h)(4)(A) of the IRC and Section 1.170A-14(d) of the Treasury Regulations, the agricultural preservation of the Land will protect open space pursuant to a clearly delineated State conservation policy which yields a significant public benefit. The Conservation Values meet the requirements of Section 170(h)(4)(A) of the IRC and Section 1.170A-14(d) of the Treasury Regulations. The Conservation Values are not likely to be adversely affected to any substantial extent by the

continued use of the Land as authorized herein or by the use, maintenance or construction of those structures that exist on the Land or are permitted to be constructed thereon.

### ARTICLE III. LAND USE AND STRUCTURES

A. General. This Article sets forth certain specific restrictions, prohibitions, and permitted activities, uses, and structures under this Easement. All manner of non-agricultural commercial, industrial or residential use or purpose or any use that temporarily or permanently impairs or interferes with the Land's agricultural value, use or utility is prohibited. If the Grantor or his personal representatives and assigns have any doubts concerning a particular use or activity permissible under this Easement, the Grantor or his personal representatives and assigns may submit a written request to the Grantee for consideration and approval of such use prior to undertaking such use or activity.

B. Agricultural Uses and Activities. "Agriculture", "Agricultural" or "Agricultural Use", means any use of the Land which directly contributes to the production, conversion, processing, storage, or sale of agricultural products generated on the Land and/or management of products such as livestock, horses, poultry, crops, trees, shrubs, plants, other vegetation, and aquaculture. The Land may be used for any Agricultural Use , and to carry on all normal agricultural operations, including, but not limited to: 1) the operation at any time of any machinery used in farm production or the primary processing of any Agricultural products; 2) 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;

3) other operations directly relating to the processing, storage, or sale of farm, Agricultural or woodland products generated on the Land; and 4) activities as approved by the Foundation for farm and forest related uses and home occupations.

C. Commercial Uses and Activities. “Commercial” means any use or activity conducted by Grantor or a third party for the purpose of generating revenue or other benefit. Commercial uses or activities are only permitted upon the Land if they are Agricultural Uses permitted by Grantee’s regulations, or as permitted under Title 2, Subtitle 5 of the Agriculture Article, Annotated Code of Maryland.

D. Structures and Dwellings. The Grantor may build structures for permitted Agricultural Uses and remodel, renovate, replace, enlarge and maintain existing structures. New dwellings, whether created by construction or the conversion of a non-residential structure, shall be prohibited except as follows:

1. There are \_\_\_\_\_ (\_\_\_) existing dwelling(s) that are identified on Exhibit C. The existing dwelling(s) may be remodeled, renovated, replaced, enlarged, or maintained without the prior written approval of Grantee. Relocation of an existing dwelling is prohibited without Grantee’s written approval, in accordance with Grantee’s regulations.

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**Choose ONE of the following three lot election options:**

**[Option #1 Unrestricted Lot Election]**

2. One unrestricted lot may be released from this Easement upon written

application by the Grantor, or his personal representatives or assigns. The unrestricted lot may be retained by the Grantor or conveyed to anyone, to construct one (1) residential dwelling, subject to the following conditions:

a. The Grantee shall have approval over the size, location and configuration of the parcel to be released from the Easement, it being the intent that the Agricultural Use of the Land not be impaired by said partition;

b. If the landowner requests the release of an unrestricted lot surrounding one single dwelling which existed as of the date of this Easement and is identified as such on Exhibit C, the Grantee shall have approval over the size and configuration of the lot.

c. Upon approval, Grantor, or subsequent landowner, shall pay the Grantee for the acreage to be released. The price shall be the price per acre that the Grantee paid the Grantor for the Easement and the Grantee shall issue a release containing restrictions as specified in Agriculture Article, Section 2-513, Annotated Code of Maryland. The release shall be recorded among the land records where the Land is located at the landowner's expense and shall bind all future owners.

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**[Option #2 Family Lot Election]**

2. Family Lots.

a. Eligibility. The Grantee, on written application from the Grantor, shall release free of easement restrictions only for the Grantor who originally sold this Easement,

a lot as provided by Agriculture Article §2-513, Maryland Annotated Code for the purpose of constructing a dwelling house for the use only of that Grantor or the Grantor's child, subject to the following conditions:

i. The total number of lots allowed to be released under this paragraph may not exceed a) one (1) lot if the size of the Land is 20 acres or more but fewer than 70 acres, b) two (2) lots if the size of the Land is 70 acres or more, but fewer than 120 acres, or c) three (3) lots if the size of the Land is 120 acres or more, provided that the resulting density on the Land does not exceed the density allowed under zoning of the Land before the Grantee purchased the Easement. The right reserved to the Grantor under this subparagraph belongs only to the Grantor who originally sold this Easement and may be exercised only by the Grantor named in the instrument, and is extinguished upon the death of the Grantor or a transfer of 100% of the Grantor's interest in the Land.

ii. 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;

iii. Before any release from Easement, the Grantor, and/or the Grantor's child, if applicable, shall agree not to divide further any portion of the Land allowed to be released; the agreement shall be recorded among the land records where the Land is located

and shall bind all future owners;

iv. If the release is to be issued for the Grantor's child, the child must be at least 18 years of age at the date that the preliminary release is issued;

v. If the Land is in an active Maryland Agricultural Land Preservation Foundation district immediately prior to this Easement and the Grantee released free of the district's restrictions for a person owning that Land, a lot for the purpose of constructing a dwelling house, the Grantee shall not release free of easement restrictions for the Grantor, an additional lot for the same purpose; for each lot that the Grantor had excluded from the district's restrictions, the number of lots that the Grantor otherwise would be entitled to have released under this Section IV.A. is reduced by one. Additionally, if the Grantor owns other land under district or easement and the Grantee released a lot for the purpose of construction a dwelling for use of the Grantor or the Grantor's child, Grantee shall not release an additional lot on the Land for the same persons.

vi. Subject to the requirements and conditions of this ARTICLE III Section D, only one (1) Grantor's lot may be released with the concurrence of all the owners in title at the time of the request. The Grantor's lot may be used as a residence by any of the following individuals:\_\_\_\_\_

The Grantor further agrees that the eligibility to have a Child's lot released is restricted and limited to a child only of the following individuals namely,  
\_\_\_\_\_



b. Preliminary and Final Release. After receiving a sufficient application and certifying that the landowner and proposed lot owner have 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 Preliminary Release which shall:

i. Become final when the Grantee receives and certifies a non-transferable building permit in the name of the proposed lot owner for the construction of a dwelling house; or

ii. Become void upon the death of the person for whose benefit the release was intended if the Grantee has not yet received a building permit as provided herein; or

iii. Unless extended by a majority vote of the Grantee's Board of Trustees, become void if a non-transferable building permit in the name of the Grantor or Grantor's child is not received by the Grantee within 3 years of the date of the recordation of the preliminary release.

Any preliminary or final release, building permit or other document issued or submitted in accordance with this sub-section 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.

c. Existing Dwelling. On written request to the Grantee, the Grantor may exclude from the Easement restrictions a lot surrounding each single dwelling house, which

existed as of the date of this Easement as a Family lot to which the Grantor was eligible under this ARTICLE III Section D, by a land survey and recordation provided at the expense of the landowner or landowner's personal representatives, successors or assigns. The Grantee shall have approval over the size and configuration of the lot. Before any exclusion is granted, the Grantor 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.

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**OR**

**[Option #3 Lot Waiver Election]**

2. The right to release of a lot otherwise permitted under Agriculture Article Section 2-513, Annotated Code of Maryland is hereby waived.

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3. Upon a showing of current and compelling need and subject to Grantee's approval, a Tenant House, as defined by the regulations of the Grantee, may be constructed by the Grantor, or his personal representatives or assigns, in accordance with the regulations of the Grantee, and subject to the following conditions:

a. The Grantee shall have approval over the size and location of the Tenant House and construction may not exceed one (1) Tenant House per full 100 acres of Land (for example, one (1) Tenant House for 100-199 acres; two (2) Tenant Houses for 200-299 acres),

unless otherwise approved by the Grantee upon a showing of compelling need.

b. The Tenant House and the land on which it is constructed may not be subdivided or conveyed separately to any other person. The Tenant House is accessory to the Agricultural Use of the farm and, as such, its use is intended to be consistent with the Conservation Purpose stated herein.

4. Non-Commercial Utilities to Serve Structures on the Land. The following non-commercial utilities are permitted to serve permitted structures on the Land: satellite dishes, electric power, sanitary sewer connections, heat pumps, septic systems, water services, telephone and communication systems. The size, location and configuration of utility facilities to be installed above the tillage line or upon the surface of the Land must be approved by the Grantee, which may condition its approval. Utilities must be sized and designed to serve the structures upon the Land and shall not be installed to facilitate development, use, or activities on an adjacent or other property. Non-commercial renewable energy sources used to serve authorized structures on the Land (including but not limited to solar energy devices on a structure; geothermal heating and cooling systems, also known as ground source heat pump; wind energy devices; systems based on the use of Agricultural byproducts and waste products from the Land to the extent not prohibited by governmental regulations; and other renewable energy systems that are not prohibited by governmental regulations) may be permitted with prior written approval of Grantee, which may condition its approval. Cellular towers are prohibited.

E. Authorized Renewable Energy Sources for Commercial Profit. Pursuant to

Agriculture Article § 2-513, Annotated Code of Maryland, and subject to written approval by the Grantee, the Grantor may construct an Authorized Renewable Energy Source (“ARES”) on the Land for commercial profit. ARES facilities include the following energy sources to generate electricity for commercial profit: 1) solar; 2) wind turbines; 3) anaerobic digestion of poultry litter; and 4) anaerobic digestion of livestock manure. Approval for any ARES facility on the Land shall comply with Subtitle 2 of Title 5 of the Agriculture Article, Annotated Code of Maryland and the Grantee’s regulations governing ARES facilities. After June 30, 2019, the Grantee shall not approve the use of any ARES facility on the Land, unless otherwise authorized by State law.

F. Grants to Others Across and Upon the Land. Unless otherwise authorized by this Easement, no conveyances, oil, gas or mineral leases, or similar servitude, rights of way or easements for utilities or roadways or other restrictions, including other conservation easements such as forest easements and wetland easements, may be granted to any person or government agency in, on, over or under the Land subject to this Easement without the prior written approval of Grantee, which may condition its approval in accordance with its regulations..

G. Subdivision. 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, which may condition its approval in accordance with its regulations. Notwithstanding the fact that the Land subject to this Easement may be comprised of 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. 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 an Agricultural purpose, which the Grantee, in its sole discretion, deems sufficiently extraordinary to justify an exception to the prohibition against division and in accordance with its regulations. 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.

H. Development Rights. Except as provided in Article III, Section D. 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 he shall not be permitted to develop the Land based on any existing, retained, or after acquired development rights, except for that which the Grantee has given approval in accordance with Article III, Section D. The Land 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 industrial uses of another property.

I. Soil and Water. As determined by and approved by the local soil conservation district, the Land shall be managed in accordance with a Soil Conservation and Water Quality Plan (the “Plan”). The Plan shall be implemented to address existing and potential soil and water quality issues in order to promote the agricultural capability of the Land and to protect water quality. In addition to the requirements of the local conservation district, the Plan shall include sound agricultural soil and water conservation practices, an installation schedule and a maintenance program. The Plan shall be updated upon any change in type of Agricultural production being conducted on the Land or a minimum of every 10 years. Upon request, the Grantor agrees to provide the Plan to Grantee, its successors or assigns, or permit the Plan to be provided to Grantee by the Soil Conservation District office.

J. Forest Management. Woodland shall be managed in accordance with sound forestry practices. If at any time the Land contains 25 (twenty-five) acres or more of contiguous forest, the Grantor shall acquire, implement, maintain, and update a Forest Stewardship Plan (“FSP”) prepared by a licensed professional forester. The woodland shall be managed in accordance with the FSP, using sound forestry practices, with the right to harvest trees which may include selective cutting or clear cutting in a manner which will not diminish its productive capability. Upon request, the Grantor agrees to provide the FSP to Grantee, its successors or assigns, or permit the FSP to be provided to Grantee by the forester.

K. Dumping. No ashes, debris, concrete, sawdust, bark, trash, rubbish, vehicle or any other material may be dumped on the Land, except material used in normal Agricultural

practices. This Easement does not permit or require Grantee to become an operator or to control any use of the Land 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.

L. Excavation; Surface and Subsurface Extraction. The Land encumbered by this Easement includes all surface and subsurface rights. By way of example and not limitation, these surface and subsurface rights include, all mining, drilling, and quarrying rights and all rights to excavate or remove subsurface oil, gas, sand, gravel, shale, limestone, crude petroleum, natural gas, clay, ceramic, fertilizer minerals and deep mined minerals, including bituminous coal. Grantor shall not sell, transfer, encumber, lease, or otherwise separate any mineral rights, currently owned or later acquired, from the Land without the express written approval of the Grantee. Grantor shall not grant any rights of ways, easements, or rights of entry, or physically establish roadways across the Land for purposes of surface or subsurface excavation and mining, including drilling, on the Land or other lands. All manner of on-site surface excavation and mining, including drilling, is prohibited, except for customary Agricultural Uses consistent with the Plan required by Section I. of Article III. Off-site subsurface extraction may be permitted only if it originates outside a reasonable buffer from the Land's boundaries with the prior written approval of Grantee, and, if applicable, in accordance with Treasury Regulation 1.170A-14(g)(4). In contemplating approval of off-site subsurface extraction, Grantee shall consider whether the impact to the Land and the Agricultural productivity will be limited and localized, or

will be irremediably destructive of Conservation Values. Grantee may impose conditions on its approval of subsurface extraction.

M. Boundaries. It is the Grantor's obligation to locate and clearly mark the boundaries of the Land before undertaking any actions that are restricted by this Easement in the vicinity of such boundary. Grantee has the right to require a survey of the Land or the relevant portion thereof, at the Grantor's cost, to determine if an activity complies with the terms of this Easement. In addition, Grantor shall regularly inspect the boundaries of the Land and use whatever means necessary to prevent encroachments or claims of adverse possession by others. The Grantor, his personal representatives or assigns, shall have an affirmative duty to defend a lawsuit brought by third parties against the Grantor, his personal representatives or assigns, disputing boundary lines or title or claiming title by adverse possession.

N. Signage. 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:

1. to state the name of the Land and the name and address of the occupant;
2. to advertise any home or ancillary occupations consistent with the purposes of this Easement subject to the approval of the Grantee;
3. to advertise sales of Agricultural products consistent with the purposes of this Easement; and
4. to advertise the Land's sale or rental, to forbid trespassing or hunting, to mark



boundary lines, to identify the Land's protected status under this Easement, or to support a political candidate, all as further regulated by local laws.

#### ARTICLE IV. OTHER RETAINED RIGHTS

Subject to the provisions of this Easement, Grantor retains the right to sell, devise, transfer, lease, mortgage or otherwise encumber the Land. Grantor retains the right to sell, trade, or exchange credits allocated to Agricultural products produced on the Land. All rights reserved by Grantor or activities not prohibited by this Easement shall be exercised so as to prevent or to minimize damage to the Conservation Values identified herein and water quality, air quality, land/soil stability and productivity, and the natural topographic and open space character of the Land.

#### ARTICLE V. ENFORCEMENT AND REMEDIES

A. Grantee, its successors and assigns, has the exclusive authority to enforce the Easement. This Easement is not a charitable trust and does not grant third-party standing to enforce the Easement's terms. Although this Easement will benefit the public in the ways recited above, this public benefit is incidental to the purpose of the Easement.

B. Grantee, its employees and agents shall have the right to enter the Land at reasonable times for the purpose of inspecting and surveying the Land to determine whether Grantor is complying with the provisions of this Easement. Grantor specifically grants permission to the Grantee to photograph and record the Land, structures and activities being conducted upon the Land. Grantee shall provide prior notice to Grantor at the last known address,

unless Grantee determines that immediate entry is required to prevent, terminate, or mitigate an alleged or actual violation of this Easement which poses a serious or potentially permanent threat to Conservation Values.

In the course of such inspection, Grantee may not inspect the interior of any structure. However, if Grantee has a reason to believe that a structure (for example, a barn) has been converted to a dwelling or a structure has been built to contain a dwelling without Grantee approval, written notice of a suspected violation will be provided to the Grantor including the reasons for suspicion. Grantor shall be provided a reasonable period of time to cure the violation or prevent the threatened violation. Subsequently, Grantee shall schedule another inspection and may enter the interior of the structure in question.

C. Upon any breach of a provision of this Easement by Grantor, and after due notice to Grantor, Grantee may institute suit to enjoin any such breach or enforce any provision by temporary, *ex parte* and/or permanent injunction, either prohibitive or mandatory, including a temporary restraining order, whether by *in rem*, *quasi in rem* or *in personam* jurisdiction; and require that the Land be restored promptly to the condition required by this Easement at the expense of Grantor (including, but not limited to, re-conveyance of title to land conveyed in violation of provisions herein); to recover damages; to impose civil penalties; and to take such other legal action as may be necessary to ensure compliance with the Easement and the covenants, conditions, limitations and restrictions or other provisions herein contained.

Grantee's remedies shall be cumulative and shall be in addition to all appropriate legal

proceedings and any other rights and remedies available to Grantee at law or equity.

D. No failure or delay on the part of Grantee to enforce any provision of this Easement shall constitute a waiver, or otherwise discharge or invalidate any provision of this Easement or affect the right of Grantee to enforce the Easement.

#### ARTICLE VI. NO PUBLIC ACCESS OR USE

The grant of this Easement does not convey to the public or any third party the right to enter or use the Land for any purpose whatsoever. This Easement does not grant to the public or any third party a right to maintain any scenic viewshed on or over the Land.

#### ARTICLE VII. BASELINE DOCUMENTATION

The parties acknowledge that Exhibits A – H (collectively, the “Baseline Documentation”) reflect the legal description of the Land, existing uses, location, Conservation Values, structures and dwelling units on the Land as of the date of this Easement. Grantor hereby certifies that the attached Exhibits document the condition of the Land at the time of the granting of this Easement. Grantor acknowledges that Grantee may use the Baseline Documentation to monitor the Land and to ensure that any changes to the Land or use of the Land are consistent with the terms of this Easement and comply with program requirements. The use of the Baseline Documentation does not preclude Grantee from using other evidence to establish existing conditions of the Land in the event of a dispute.

All Exhibits are hereby made a part of this Easement:

A. Exhibit A: Boundary Description and Land Records Reference is attached

hereto and made a part hereof. Exhibit A consists of \_\_\_\_ (\_\_\_\_) pages.

B. Exhibit B: Conservation Values is attached hereto and made a part hereof. Exhibit B consists of \_\_\_\_ (\_\_\_\_) pages.

C. Exhibit C: Inventory of Existing Structures is attached hereto and made a part hereof. Exhibit C consists of \_\_\_\_ (\_\_\_\_) pages.

D. Exhibit D: Color Digital Images of the Property are not recorded herewith but are kept on file at the principal office of Grantee and are fully and completely incorporated into this Easement as though attached hereto and made a part hereof. Exhibit D consists of \_\_ (\_\_\_\_) color digital images. A list of the image numbers, and image descriptions is attached hereto and recorded herewith and consists of one (1) page.

E. Exhibit E: Tax Map Showing Approximate Location of the Land is attached hereto and made a part hereof. This is to be used by Grantee as an aid for locating the Land. It is not a plat or legal description of the Land. Exhibit E consists of one (1) page.

F. Exhibit F: Form for Baseline Documentation is not recorded herewith but is kept on file at the principal office of Grantee and is fully and completely incorporated into this Easement as though attached hereto and made a part hereof. Exhibit F consists of \_\_ (\_\_\_\_) pages. A placeholder for Exhibit F is attached hereto and recorded herewith and consists of one (1) page.

G. Exhibit G: Aerial Photograph of the Land with Structures Identified is not recorded herewith but kept on file at the principal office of the Grantee and is fully and

completely incorporated into this Easement as though attached hereto and made a part hereof. Exhibit G consists of one (1) page. A placeholder for Exhibit G is attached hereto and recorded herewith and consists of one (1) page.

H. Exhibit H: Boundary Survey of the Land is not recorded herewith but is recorded among the Land Records of \_\_\_\_\_ County in Plat Book \_\_\_\_\_ folio \_\_\_\_\_ and is fully and completely incorporated into this Easement as though attached hereto and made a part hereof. Exhibit H consists of \_\_\_\_ (\_\_) page(s). A placeholder for Exhibit H is attached hereto and recorded herewith and consists of one (1) page.

#### ARTICLE VIII. DUTIES AND WARRANTIES OF GRANTOR

A. Change of Ownership. 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 shall notify the Grantee in writing of the name and address of the party receiving the interest in the Land. Grantor and his personal representatives and assigns further agree to make specific reference to this Easement in a separate paragraph of any subsequent deed or other legal instrument by which any interest in the Land is conveyed.

B. Subordination. Grantor certifies that all mortgages, deeds of trust, or other liens (collectively "Liens"), if any, affecting the Land are subordinate to, or shall at time of recordation become subordinate to, the rights of Grantee under this Easement. Grantor has provided, or shall provide, a copy of this Easement to all mortgagees of mortgages and to all beneficiaries and/or trustees of deeds of trust (collectively "Lienholders") already encumbering

the Land or which will encumber the Land prior to the recording of this 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 Easement, its Lien to this Easement by joining in this Easement for the purpose of subordinating the Liens.

C. Real Property Taxes. Except to the extent provided for by State or local law, nothing in this Easement shall relieve Grantor of the obligation to pay taxes in connection with the ownership or transfer of the Land.

D. Warranties. The Grantor who signed this Easement on the date set forth above (“Original Grantor”) is the sole owner of the Land in fee simple and has the right and ability to convey this Easement to Grantee. The Original Grantor warrants that the Land is free and clear of all rights, restrictions, and encumbrances other than those subordinated to this Easement or otherwise specifically agreed to in writing by the Grantee. The Original Grantor warrants that he has no actual or constructive knowledge of any use or release of hazardous waste or toxic substances on the Land that violates a federal, state, or local environmental law and will defend, indemnify, and holds Grantee harmless against any claims of contamination from such substances.

#### ARTICLE IX. MISCELLANEOUS

A. Assignment. With authorization of the Maryland Legislature, the Grantee may assign, upon prior written notice to Grantor, its rights under this Easement to any "qualified organization" within the meaning of Section 170(h)(3) of the IRC or the comparable provision in

any subsequent revision of the IRC and only with assurances that the Conservation Purpose will be maintained. If any such assignee shall be dissolved or shall abandon this Easement or the rights and duties of enforcement herein set forth, or if proceedings are instituted for condemnation of this Easement, this Easement and rights of enforcement shall revert to the assigning Grantee. If said Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then Grantor shall institute in a court of competent jurisdiction a proceeding to appoint an appropriate successor as Grantee. Any such successor shall be a "qualified organization" within the meaning of Section 170(h)(3) of the IRC or the comparable provision in any subsequent revision of the IRC, and approved by the Maryland Board of Public Works. No assignment may be made by any Grantee of its rights under this Easement unless Grantee, as a condition of such assignment, requires the assignee to carry out the Conservation Purpose.

B. Construction. This Easement shall be construed to promote the purposes of the statutes creating and governing the Maryland Agricultural Land Preservation Foundation under Subtitle 5 of Title 2 of the Agriculture Article, Annotated Code of Maryland, and the Conservation Purpose, including such purposes as are defined in Section 170(h)(4)(A) of the IRC. This Easement shall be interpreted under the laws of the State of Maryland, resolving any ambiguities and questions of the validity of specific provisions in a manner consistent with the Conservation Purpose. This Easement is permitted to be amended in accordance with Subtitle 5 of Title 2 of the Agriculture Article, Annotated Code of Maryland and the Grantee's regulations. Any application of the Agriculture Article, the Annotated Code of Maryland or the Grantee's

regulations to this Easement shall be applied as those laws and regulations are amended from time to time, unless this Easement or the amended law or regulation specifically state otherwise. The common law of disfavoring restrictions on the use of real property and construing restrictions in favor of the free and unrestricted use of real property shall not apply to the interpretations of this Easement or to disputes between the parties concerning the meaning of particular provisions of this Easement.

C. Jurisdiction. The provisions of this 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.

D. Entire Agreement and Severability. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to this Easement. If any provision is found to be invalid, the remainder of the provisions of this Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

E. Joint and Several. If Grantor at any time owns the Land in joint tenancy, tenancy by the entirety or tenancy in common, all such tenants shall be jointly and severally liable and responsible for all obligations set forth in this Easement.

F. Singular/Plural and Gender. 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.

G. Recordation. Grantee shall record this Easement in a timely fashion among the Land Records of \_\_\_\_\_ County, Maryland. Grantee may re-record the Easement, or record a notice of its existence, at any time without prior authorization from Grantor, his personal representatives or assigns as may be required to preserve Grantee's rights under this Easement.

H. Notice to Grantee. Any notices by Grantor to Grantee pursuant to any provision of this Easement shall be sent by registered or certified mail, return receipt requested, addressed to:

Maryland Agricultural Land Preservation Foundation  
50 Harry S. Truman Parkway  
Annapolis, Maryland 21401

or to such other addresses as Grantee may establish in writing to Grantor.

I. Counterpart Signatures. The parties may execute this Easement in two or more counterparts, 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.

J. Captions. The captions in this Easement have been inserted solely for convenience of reference and are not a part of this instrument. Accordingly, the captions shall have no effect upon the construction or interpretation of the provisions of this Easement.

TO HAVE AND TO HOLD unto the STATE OF MARYLAND, TO THE USE OF THE DEPARTMENT OF AGRICULTURE on behalf of the MARYLAND AGRICULTURAL

LAND PRESERVATION FOUNDATION, its successors and assigns, forever. The covenants agreed to and the terms, conditions, and restrictions imposed as aforesaid shall be binding upon Grantor, his personal representatives and assigns and all other successors to them in interest, and shall continue as a servitude running in perpetuity with the Land.

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

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 Easement for the sole purpose of agreeing to subordinate and does hereby subordinate to this Easement the Deed of Trust Lien from Grantor.

**OR**

Mortgage

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

IN WITNESS WHEREOF, Grantor and Grantee (and Mortgagee/Deed of Trust Beneficiary) have hereunto set their hands and seals.

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 Easement and acknowledged that he/she/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: \_\_\_\_\_

MORTGAGEE/DEED OF TRUST BENEFICIARY:

By: \_\_\_\_\_(SEAL)  
Name:  
Title:

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

I HEREBY CERTIFY that, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, 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: \_\_\_\_\_

Approved as to legal form and sufficiency this \_\_\_\_ day of \_\_\_\_\_, 20\_\_. "Approved" means the document meets the legal requirements for a deed of easement; it does not mean approval or disapproval of the transaction.

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

ACCEPTED BY GRANTEE:  
MARYLAND AGRICULTURAL LAND  
PRESERVATION FOUNDATION

BY: \_\_\_\_\_ (SEAL)  
\_\_\_\_\_, Executive Director

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 and County aforesaid, personally appeared \_\_\_\_\_, who acknowledged herself to be the Executive Director of the Maryland Agricultural Land Preservation Foundation, 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 Foundation by herself as Executive Director.

WITNESS my hand and Notarial Seal.

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

**ATTORNEY CERTIFICATION**

I hereby certify this deed was prepared by me, an attorney admitted to practice by the Court of Appeals of Maryland.

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