



## **Three-Year (3) FOREST IMPROVEMENTS AND PROTECTION AGREEMENT ("FIPA")**

*Three-Year FIPA's: for projects that contain any seedling, whip, tubling or 1-5 gallon container plantings, or any natural regeneration areas.*

**BANKING**

**MITIGATION FOR SUBDIVISION/SITE PLAN** \_\_\_\_\_

**OWNER / CONTACT:** \_\_\_\_\_

This Forest Improvements and Protection Agreement ("Agreement"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ and between \_\_\_\_\_, ("Owner") and Frederick County, Maryland, a body corporate and politic ("County").

WHEREAS, Owner holds title to certain real property, located in Frederick County and more particularly described as \_\_\_\_\_ and being part or all the same property conveyed to Owner by deed dated \_\_\_\_\_, 20\_\_\_\_, and recorded among the land records of Frederick County at Liber \_\_\_\_\_, Folio \_\_\_\_\_ ("Property"), and

WHEREAS, the Final Forest Conservation Plan, hereinafter called the "FFCP", as approved by the Frederick County Planning Commission ("Commission"), provides for the required protection and preservation of forest, and/or afforestation or reforestation ("Forest Improvements") to comply with the current Forest Resource Ordinance; and

WHEREAS, the Forest Resource Ordinance requires that Forest Improvements shown on the FFCP be: (1) implemented as per the FFCP specifications; and (2) adequately maintained, managed and monitored for three (3) complete growing-seasons by the Owner to ensure forest establishment and/or protection.

THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Forest Improvements shall be implemented by Owner in accordance with the specifications of the approved FFCP Number \_\_\_\_\_.

2. The County, its agents or designees may enter upon the Property at any time from the commencement of development, continuing through three complete growing-season maintenance periods following the planting or re-planting of material, to make routine inspections regarding compliance with the FFCP. Thereafter the County its agents or designees may enter upon any Forest Easement area to verify compliance with easement terms and conditions.

3. The Owner shall maintain and manage the required Forest Improvements for three complete growing-seasons, in accordance with the FFCP. This may include, but shall not be limited to:

- planting native plant species compatible with the existing habitat.
- watering; fertilizing; controlling competing vegetation; and protecting plants from disease, pests, and mechanical injury during the initial planting and any subsequent re-planting, and through the two-year maintenance period(s) as necessary.
- providing protection devices such as fencing and interpretive signs as necessary to prevent the destruction or degradation of planting sites or areas of existing forest.

4. The Owner shall monitor the Forest Easement site for three complete growing-seasons after the Forest Improvements are completed, and the Owners shall replace any dead plantings to the minimum survival rate as stated in the Frederick County Forest Conservation Technical Manual. If a substantial amount of living seedlings/trees is not maintained, new planting must occur, and the guarantee shall remain in effect for three new complete growing-seasons, for each new planting, or until a "forest" has existed for a three-year period.

5. After three complete growing-seasons have elapsed, the Owner or subsequent owners of the property shall maintain and manage the forest easement area as provided in the Forest Resource Deed of Easement/Maintenance and Covenants Agreement and in accordance with the FFCP.

6. The Owner shall provide financial guarantee in the form of a letter of credit or cash to be held in escrow by the Treasurer of Frederick County in the amount of \$\_\_\_\_\_, estimated to cover the cost (including a 15% contingency) for the completion of the required Forest Improvements. The guarantee must be posted prior to any clearing or land disturbing activities on the Property, or prior to the recording of plats, whichever comes first.

7. Upon completion of all required Forest Improvements, the Owner shall request inspections of the Forest Improvements by the County's Inspectors ("Inspectors") or successors thereto.

8. After 1 (one) complete growing-season, the Owner may request the Inspectors to inspect the Forest Improvements associated with the FFCP. If the Forest Improvements meet or exceed the standards of the Forest Resource Ordinance and the Technical Manual, 25 percent of the amount of any guarantee that has been posted shall be returned or released. If the guarantee has been given in the form of a letter of credit, the County shall notify the appropriate entity that liability has been reduced by 25 percent.

9. After 2 (two) complete growing-seasons, the Owner may request the Inspectors to inspect the Forest Improvements associated with the FFCP. If the Forest Improvements meet or exceed the requirements, an additional 25 percent of the amount of any guarantee that has been posted shall be returned or released. If the guarantee has been given in the form of a letter of credit, the County shall notify the appropriate entity that liability has been reduced by an additional 25 percent.

10. After 3 (three) complete growing-seasons, the Owner may request the Inspectors to verify that the Forest Improvements as shown on the FFCP meet or exceed the standards of the Forest Resource Ordinance and the Technical Manual. If the Forest Improvements meet or exceed the requirements, the remaining amount of the guarantee shall be returned or released. If a substantial amount of living seedlings/trees is not maintained, new planting must occur, and the guarantee shall remain in effect for three new complete growing-seasons, for each new planting, or

until a "forest" has existed for a three-year period.

11. In the event that only protective fencing and/or signage is required, the Owner may request inspection, and if the FFCP is in full compliance, 50 percent of any guarantee may be returned or released upon approval by the Inspectors. If the protective features remain in good repair, the remaining 50 percent shall be returned or released at the end of the second year following inspection.

12. Failure to comply with the terms of this Agreement or the FFCP, will require the Owner(s) (jointly and severally) to pay the sum of \$1.00 per square foot of area found to be in non-compliance. In the event that the County is required to make or complete any of the Owner's obligations under this Agreement or the Final Forest Conservation Plan FFCP, the County shall be entitled to 15 percent of the security given hereunder as administrative fees, in addition to any and all other available remedies.

13. This Agreement may not be assigned without the prior written consent of the County, which shall not be unreasonably withheld, and payment of any applicable fee required by the County.

Witness the following signatures.

Date \_\_\_\_\_ (SEAL)  
Owner \_\_\_\_\_

Date \_\_\_\_\_ (SEAL)  
Owner \_\_\_\_\_

FREDERICK COUNTY, MARYLAND

By: \_\_\_\_\_  
Gary W. Hessong, Deputy Director  
Division of Planning & Permitting