

## **EXHIBIT B**

### **FOREST RESOURCE INSPECTION AND MAINTENANCE COVENANTS AND AGREEMENT ("AGREEMENT")**

#### **(CATEGORY A)**

1. ***GRANTOR OBLIGATIONS:*** The Grantor(s), its/their successors, heirs and assigns, covenant and agree to provide for all the planting, maintenance, and protection of the Forest Conservation Area to ensure that the Forest Conservation Area is and remains in compliance with the approved Forest Conservation Plan No. \_\_\_\_\_ on file with Frederick County, Maryland (the "County") and all applicable standards, rules, regulations, and laws.

2. ***MAINTENANCE AND PROTECTION RESPONSIBILITY:*** Unless otherwise provided, the person(s) or (entity) having legal title to the particular section of property where any Forest Conservation Area is located is responsible for the maintenance and protection of that area. In the event a Forest Conservation Area is located in one or more parcels under different ownerships, the owners of the parcels are responsible for their pro rata share of any maintenance.

3. ***CORRECTING DEFICIENCIES:*** Upon receipt of notice from the County of any problems or deficiencies in the Forest Conservation Area, the Grantor(s) or other responsible party will correct problems as directed. If the requested corrections are not made within thirty (30) days, the County may, at its discretion, perform all the necessary work to bring the Forest Conservation Area into compliance with statutory and Forest Conservation Plan requirements, and the Owners of the land(s) upon which the Forest Conservation Area is located shall be assessed for the cost of the work. If not paid within thirty (30) days, the assessment shall create a lien on the property and may be included in the tax bill for the property or properties on which the Forest Conservation Area is located and collected as taxes by the County.

4. *INDEMNIFICATION:* The Grantor(s) shall indemnify and save the County harmless from any and all claims for damages to persons or property arising from the planting, maintenance, protection, and use of the Forest Conservation Area.

5. *INDIVIDUAL TREE REMOVAL:* Non-commercial, selective clearing of individual trees may occur, however, the forest easement area(s) shall not be cleared below the “standard forest density” of at least 100 trees per acre with at least 50 percent of those trees having a 2 inch or greater diameter at 4.5 feet above the ground. Diseased or hazardous trees or tree limbs may be removed to prevent personal injury or property damage.

6. *REMOVAL OF NOXIOUS WEEDS AND EXOTICS:* Noxious weeds, as identified by the Maryland Department of Natural Resources; and exotic or invasive trees and shrubs, listed in the State Forest Conservation Technical Manual, may be removed without regard to the “Standard Forest Density” described in Section #5 above, and the method of removal must be consistent with the limitations contained in this Agreement.

7. *BRUSH REMOVAL RESTRICTIONS:* Provided that it is outside a floodplain, stream, or floodplain buffer area as defined in the Frederick County Code, brush may be removed from areas within 35' of a residential dwelling structure or principle structures of a commercial, institutional or industrial use, subject to the restrictions listed in Sections 8 and 9 below.

8. *CONDITIONS OF PERMITTED BRUSH REMOVAL:* For areas that exceed the standard forest density, understory plant materials (including, but not limited to brush, shrubs, saplings, seedlings, undergrowth, or vines) may be cut down, removed or destroyed, provided that:

- A) their removal does not damage, injure, or kill trees having a 6 inch or greater diameter at 4.5 feet above the ground;
- B) their removal does not create erosion or slope stability problems;

C) the removal of such understory does not cause the forest easement area(s) to fall below the required standard forest density as described in Section 5; and

D) the forest floor is allowed to continuously regenerate tree and shrub seedlings to create future forest growth, and to continuously support a biological community consistent with typical forest environments and habitats.

9. *SAPLING AND SEEDLING PROTECTION:* For Forest Conservation Areas that are below the standard forest density, (such as areas designated 'Natural Regeneration' on the signed forest conservation plans; or for forested areas that fall below the standard forest density due to natural occurrences, such as fire, pest damage, wind storm, etc.) saplings and seedlings may not be cut down, removed or destroyed until the forest easement area contains sufficient living trees to meet or exceed the standard forest density.

10. *FENCES:* Fences are permitted within the Forest Conservation Area provided their construction and maintenance can be executed in compliance with the restrictions of this Agreement.

11. *SUPPLEMENTAL PLANTING:* The Grantor(s) may supplement existing (or replace dead) trees or undergrowth with new plantings provided that new plantings are characteristic of trees or undergrowth materials native to Maryland.

12. *ACCESSORY APPURTENANCES:* Within the Forest Conservation Area, the Grantor(s) may construct accessory appurtenances to a dwelling unit, including but not limited to, play equipment, dog houses and pens, chicken coops, and sheds--up to a cumulative maximum of 100 square feet (any one structure shall not exceed 10 feet by 10 feet), per one acre of Forest Conservation Area - provided that clearing for the construction of the accessory structures does not cause the Forest Conservation Area to fall below the standard forest density.

13. *ALLOWABLE COMMERCIAL TIMBER CUTTING:* Timber cutting for commercial purposes is permitted within the Forest Conservation Area provided that the area of timber cutting is performed in

accordance with:

A) A Forest Management Plan that is:

- (i) prepared by a licensed professional forester; and
- (ii) approved by the Maryland Department of Natural Resources forester assigned to the

County; or

B) A Timber Harvest Plan that is:

- (i) consistent with the intent of the Forest Management Plan, and the intent and requirements of the forest conservation plan;
- (ii) prepared by a licensed professional forester; and
- (iii) submitted to and approved by the local Forest Conservancy Board.

14. *HARVESTING/REFORESTATION:* If harvesting performed in accordance with Section 13 above causes the Forest Conservation Area to fall below the standard forest density, the Grantor(s) shall be responsible for reforestation, if natural regeneration is inadequate to provide for the cut area to achieve forested conditions in a timely manner.

15. *ADVERTISING RESTRICTIONS:* No posting of any advertisement sign or billboard is permitted.

16. *DUMPING RESTRICTIONS:* No dumping of unsightly or offensive material, including but not limited to, trash, ashes, sawdust or grass clippings shall occur within the Forest Conservation Area. Natural biodegradable materials may be allowed in a properly located, designed, managed and maintained compost pile, provided the activity does not damage adjacent trees.

17. *FILL AND GRADING RESTRICTIONS:* Construction, excavation, placement of heavy fill, regrading of the surface, or construction of retaining walls shall be done only for afforestation and/or reforestation purposes in accordance with an approved forest conservation plan; or with prior approval of

the County.

18. *MOTORIZED VEHICLE RESTRICTIONS:* No motorized vehicles, such as go-carts, dune buggies, trucks, cars, vans, etc., shall be operated or stored in the Forest Conservation Area, except for those used in periodic maintenance or timber harvesting operations.

19. *UTILITY RESTRICTIONS:* The easement area shall not be used as a site for any major public utility installation including, but not limited to, electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, or telephone exchanges. Nothing in this Section prevents the construction or maintenance of (on, over, or under, the Forest Conservation Area) of utilities normally needed to serve a residential neighborhood that have been approved by the appropriate reviewing agencies. These utilities should be located to prevent or minimize loss of trees as is practicable.

20. *PREVENTION OF DAMAGE:* All rights reserved by or not prohibited to the Grantor(s) shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the Forest Conservation Area.

21. *APPROPRIATE ACCESS:* The Grantor(s) will provide appropriate access to, and hereby authorizes the County representatives to enter the property and Forest Conservation Area at reasonable hours for the purpose of making periodic inspections to ascertain compliance with the restrictions, conditions, and easements established herein, and as contained in the approved Final Forest Conservation Plan.

22. *GENERAL PUBLIC RESTRICTIONS:* This Agreement does not convey to the general public the right to enter the property or easement for any purpose. The Agreement does not restrict or enlarge access by the general public in common open space (if any) held under community or homeowner association control beyond any access rights created by the applicable community or homeowner association covenants and bylaws.

23. *VIOLATIONS:* Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this Agreement, the County shall have the right to enforce such provisions in accordance with any statutory authority (including, if applicable the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time). The County may also seek injunctive or other appropriate relief in any Court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original state, and the Grantor(s) agrees to pay for Court costs and reasonable attorneys' fees if the County prevails any judicial proceedings.

24. *LEGAL REFERENCES:* The Grantor(s) agrees to make specific reference to this Agreement in a separate paragraph of any sales contract, mortgage, subsequent deed, lease or other legal instrument by which any possessory or equitable interest in the property is conveyed.

25. *ENFORCEMENT FAILURE:* Failure on the part of the County to enforce any covenant or provision herein shall not constitute a waiver of the County's right to enforce any covenant within this Agreement.

26. *WRITTEN NOTICES:* All written notices required by this Agreement shall be sent to the Director, Community Development Division, 30 North Market Street, Frederick, Maryland 21701.

27. *TRANSFER OF RESPONSIBILITY NOTIFICATION:* The Grantor(s) shall promptly notify the County if the Grantor(s) transfers the maintenance responsibilities for the Forest Conservation Area, by providing a copy of the document of transfer signed by all parties.