

Tax Map No.: 2-31 3.00 2.00; 2-31 6.00 17.00;
2-31 6.00 8.00; 5-30 8.00 26.00
1-35 17.00 5.00; 1-35 16.00 30.00
Prepared by: Dept. of Agriculture
2320 S. DuPont Highway, Dover, DE 19901

Return to: Parkowski, Guerke & Swayze, P.A.
P. O. Box 598, Dover, DE 19903

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is made this 15th day of December, 2004, by and between THE CONSERVATION FUND, A NON-PROFIT CORPORATION, organized and existing under the laws of the State of Maryland and having an address at 1800 North Kent Street, Suite 1120, Arlington, Virginia 22209 (the "Grantor") and the STATE OF DELAWARE, to the use of the DEPARTMENT OF AGRICULTURE, a body corporate and instrumentality of the State of Delaware having an address at 2320 South DuPont Highway, Dover, Delaware 19901 (the "Grantee").

WITNESSETH

WHEREAS, Grantor owns in fee simple certain real property consisting of **SIX PARCELS** of land (each individually referred to as a "Parcel"), comprising a total of approximately **ONE THOUSAND THREE HUNDRED FIFTY SEVEN (1357.78)** +/- acres, of land situate, lying and being in Sussex County, Delaware as more particularly described in Exhibit A-1, attached hereto (the Property"), which was conveyed to Grantor by the Deeds set forth on Exhibit A-1

WHEREAS, Grantor is willing to grant a perpetual Conservation Easement over the Property, thereby restricting and limiting the use of the Property as hereinafter provided in this Conservation Easement for the purposes hereinafter set forth, and Grantee is willing to accept such Conservation Easement;

WHEREAS, Grantor and Grantee have identified in Exhibit B significant conservation values associated with the Property and have common purposes in conserving and preserving these values and the natural, forestry, environmental, scenic, rural, woodland and wetland characteristics of the Property, the diversity of plant and animal species and natural habitats, the viable resource-based land use of the Property (hereinafter collectively "Conservation Values"), and to the extent hereinafter provided, preventing the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its open-space condition;

WHEREAS, the Property has been managed as commercial timberland and such management has contributed to the natural resource based economy of the State and protected the Conservation Values of the Property; and

WHEREAS, the Grantor's primary management objective for the Property is professional management of the forest resources on the Property, to perpetuate an economically and biologically sustainable working forest, while minimizing adverse impacts on water quality, scenic benefits and other Conservation Values associated with the Property; and

WHEREAS, the Grantee has agreed to pay the Grantor the sum of ELEVEN MILLION NINE HUNDRED NINETY-NINE THOUSAND FIVE HUNDRED FIFTY-FOUR DOLLARS (\$11,999,554.00), as full monetary consideration for granting this Conservation Easement.

NOW, THEREFORE, in consideration of ELEVEN MILLION NINE HUNDRED NINETY-NINE THOUSAND FIVE HUNDRED FIFTY-FOUR DOLLARS (\$11,999,554.00), the facts stated in the above paragraphs and the covenants, terms, conditions and restrictions hereinafter set forth (the "Terms"), and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the parties, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee and its successors and assigns, forever and in perpetuity a Conservation Easement of the nature and character and to the extent hereinafter set forth, with respect to the Property;

The Purpose of this Conservation Easement is to perpetuate as a sustainable working forest, the productive forest resources on the Property, to encourage the long-term, professional management of those forest resources; and to facilitate the biologically and economically sustainable production of the forest resources on the Property, while, conserving and preserving the significant Conservation Values of the Property, which are set forth in Exhibit B, including the natural, environmental, scenic, rural, woodland and wetland characteristics of the Property, the diversity of plant and animal species and their natural habitats, and maintaining the viable resource-based land use, and to the extent hereinafter provided, preventing the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its open-space condition;

To achieve these objectives, the following Terms are set forth:

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross and as such is inheritable and assignable in accordance with Article V and runs with the land as an incorporeal interest in the Property, enforceable with respect to the Property by Grantee against Grantor and Grantor's successors and assigns.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

A. Industrial or Commercial Activities on the Property

Activities other than "Forest Management" (as that term is defined below in the Article II.A.1) and "Recreational Uses" (as those activities are more fully described in Article II.A.2) are prohibited on the Property.

1. Forest Management. The Grantor reserves the right to manage the Property as commercial timberland, including, but not limited to, the following activities: (i) harvesting, removal and sale of trees and forest products; (ii) planting and growing of trees; (iii) treatment with herbicides, pesticides, and fertilizer customarily used in the forest industry; (iv) constructing and maintaining roads, trails, stream crossings, and/or drainage structures; and (v) such activities as may be necessary to maximize fiber production or to protect forest health, subject to the provisions set forth below ("Forest Management").

(a) Grantor shall have one (1) year from the date of this Conservation Easement to prepare a Forest Stewardship Plan in accordance with the standards attached hereto in Exhibit C (the "Forest Stewardship Plan"). Grantor shall deliver the Forest Stewardship Plan to Grantee for Grantee's approval which approval shall not be unreasonably withheld for the sole purpose of verifying material consistency with the standards for the Forest Stewardship Plan, as set forth in Exhibit C. All Forest Management Activities conducted on the Property by Grantor and its representatives, agents, contractors and subcontractors, shall comply with the provisions set forth in the Forest Stewardship Plan approved by Grantee. Grantor may, from time to time, propose amendments to the Forest Stewardship Plan or update Forest Stewardship Plan. Any changes, modifications or amendments to the Forest Stewardship Plan shall be subject to the prior approval of the Grantee which approval shall not be unreasonably withheld, for the sole purpose of verifying material consistency with the standards of the Forest Stewardship Plan as set forth in Exhibit C. Approved changes shall be incorporated into the Forest Stewardship Plan by written amendment executed by the Grantor. Notwithstanding the foregoing, the Grantor and Grantee recognize that Forest Management activities may be conducted on the Property from and after the date of this Conservation Easement, but prior to the date the Forest Stewardship Plan is completed ("Interim Forest Management"). Interim Forest Management activities shall be conducted in accordance with any existing forest stewardship plans and agreements.

(b) Grantor's Forest Management Activities on the Property shall be in compliance with the State's effective Best Management Practices (Delaware's *Forestry Best Management Practices Manual*, September 1995, Document Control No. 65-01-04/95/09/01; Forest Service Regulations, Statutory Authority: 3 Delaware Code, Section 1101) or successor guidelines.

(c) As set forth in Article II.E. and II.F. Grantor may excavate surface and/or mineral materials and place or deposit materials on the Property, if customarily done as Forest Management activities in the forest industry, for the construction, maintenance, or repair of roads, trails, or stream bridge crossings, fire management, and activities associated with utility work related to Forest Management.

(2) Recreational Uses. The Grantor reserves for itself and its licensees, tenants and invitees the right to use the Property for recreational uses, including hunting, fishing, camping, hiking, nature observation and other recreational activities customarily associated with recreational activities conducted on working forest lands (the "Recreational Uses), and the right to lease or license the Recreational Uses to third parties, provided such activities otherwise

comply with and are subject to the Terms of this Conservation Easement.

B. Construction and Improvements

Buildings, means of access and other structures and improvements and the construction thereof are prohibited on the Property, except for the construction, maintenance, repair, replacement and rebuilding of (a) the existing roads located on the Property (including, without limitation, all culverts, ditches, pipes, drainage facilities, gates and bridges associated therewith (collectively the "Existing Roads"), and the (b) construction of the following new structures and improvements listed below (the "New Structures"):

(1) Temporary, non-permanent structures and improvements designed, constructed and utilized in connection with the Forest Management activities and Recreational Uses permitted pursuant to the Terms of Article II.A.1. and II.A.2., provided the construction of such structures does not materially impact the Conservation Values of the Property or the Purpose of this Conservation Easement. Temporary, non-permanent structures and improvements are defined as structures or improvements that have no permanent foundation, septic, sewer, wells or water service (including for example, but not limited to skids, construction trailers, duck blinds, deer stands, docks, temporary camping shelters and recreational trailers).

(2) Four (4) residential structures each located on a site of no more than 2 acres, for the purpose of single family residential use or recreation, utilized in connection with the Recreational Uses permitted pursuant to the Terms of Article II.A.2., (including for example, but not limited to single family residences uses and recreation related seasonal cabins) (the "Residential Structures") and two (2) Recreational Lodge Structures each having a total footprint of no more than 2,000 square feet, which shall not be used as a permanent residence (the "Lodges"). The Residential Structures and Lodges are collectively referred to as the "Permanent Structures." Any dispute between multiple or successive Grantors over who has the right to the four (4) Residential Structures and the two (2) Lodges shall not affect the Grantee's rights under this Conservation Easement.

(3) No more than one (1) barn or storage shed, and one (1) wellhouse, for each Permanent Structure, to be constructed and utilized for the purpose of serving the applicable Permanent Structure. No more than one (1) garage to be constructed and utilized for each Residential Structure. Residential Structures shall be located no more than 200 feet from existing county roads.

(4) Recreational Lodge Structures shall be located only on the Marshyhope Parcel (Tax Parcel: 5-30-8-26) and the Isaacs Parcel (Tax Parcels: 2-31-3-2, 2-31-6-17, 2-31-6-8) (See Exhibit A-1). No more than one (1) Recreational Lodge Structure shall be located on the Marshyhope Parcel and no more than one (1) Recreational Lodge Structure shall be located on the Isaacs Parcel.

(5) Recreational Lodge Structures shall be located no more than 300 feet from access roads. Access roads are defined as all roadways (whether dirt, sand, gravel or sealed) that are passable with commercial vehicles and are at least twenty feet wide when cleared. Access roads shall be no more than thirty feet wide for purposes of accessing the Recreational Lodge

Structures. All Terrain Vehicle (ATV), walking and biking trails are not considered access roads for purposes of this agreement.

(6) No Permanent Structure shall be located within 300 feet of County Road 579.

(7) Reasonable means of vehicular and pedestrian access to all permitted structures and for all permitted uses, including, without limitation, Recreational Uses and Forest Management.

Grantor shall notify Grantee at least thirty (30) days prior to (i) submitting to local, State or federal agencies any permit applications ("Permit Application"), required for the construction of any new structure, any replacement structure if constructed in a location different from the original permitted structure, new permanent roads and new logging roads located within Streamside Management Zones, and (ii) the commencement of construction of any new permanent roads or any new logging roads or skid trails to be located within any Streamside Management Zones in instances where Permit Applications are not required, for the sole purpose of providing Grantee the right to approve the location of such new structures, replacement structures, permanent roads and new logging roads located in Streamside Management Zones, which approval shall not be unreasonably withheld or delayed provided the location of such structures and roads do not materially, adversely affect the Conservation Values of this Conservation Easement.

C. Divisions or Subdivisions of the Property

The Property currently consists of those separate Parcels identified and defined in Exhibit A-1. The existing Parcels of the Property may not be further divided or subdivided. Notwithstanding the previous sentence, Grantor may, with prior approval of the Grantee, which approval shall not be unreasonably withheld, allow minor adjustments to the legal descriptions for a Parcel, if reasonably necessary to resolve boundary line disagreements with adjoining landowners, and any resulting change in the legal description of the Property encumbered by this Conservation Easement shall be documented in an Amendment to this Conservation Easement, in a form satisfactory to the Grantee, which shall be executed by Grantor and Grantee and recorded in the land records office in the County where the original Conservation Easement is recorded.

D. Transferable, Cluster and Other Development Rights

Except as specifically reserved in this Conservation Easement or as otherwise necessary to permit the development of each of the Permanent Structures, Grantor hereby grants to Grantee all transferable, cluster or other development rights that are now or hereafter allocated to, implied, reserved or inherent in the Property, and the parties agree that such rights are terminated and extinguished, and may not be used or transferred to any portion of the Property, or to any other property, nor used for the purpose of calculating permissible lot yield of the Property or any other property.

E. Dumping, Placement or Storage of Materials

No materials may be dumped, placed or stored on the Property, including, but not limited to, ashes, sawdust, bark, trash, garbage, rubbish, dredge spoil, chemicals, pesticides, fertilizers, abandoned vehicles, appliances, or machinery. Notwithstanding the previous sentence, Grantor may: (1) place or store soil, rock, sawdust, bark, other earth materials, vegetative matter, compost, and all types of legally permitted herbicides, pesticides and fertilizers for Forest Management use, including but not limited to the construction, maintenance, or repair of roads, trails, or stream bridge crossings, fire management, and activities associated with utility work related to Forest Management, if customarily done for that type of Forest Management use; (2) place soil, rock, other earth materials, vegetative matter, and compost reasonably necessary for the purpose of combating erosion or flooding; (3) place materials reasonably necessary for construction or maintenance of permitted structures, and means of access as provided in Article II.B.; (4) place materials for wildlife habitat with the approval of Grantee; and (5) place or store materials in the interior of permitted structures.

F. Excavation of Materials

No excavation of materials is permitted, including, but not limited to, dredging, mining and removal of loam, gravel, soil, rock, sand, coal and petroleum. Notwithstanding the previous sentence, Grantors may excavate materials for (1) Forest Management use, including but not limited to the construction, maintenance, or repair of roads, trails, or stream bridge crossings, fire management, and activities associated with utility work related to Forest Management, if customarily done in the forest industry, (2) if reasonably necessary for the purpose of combating erosion or flooding, (3) if reasonably necessary for construction or maintenance of permitted structures, and means of access as provided in Article II.B., and (4) for wildlife habitat with the approval of Grantee.

G. Wetlands

No diking, draining, filling, dredging or removal of any wetland or wetlands is permitted, except for (1) the maintenance of drainage ditches for Forest Management use, if customarily done for that type of Forest Management use, and (2) wildlife habitat with the approval of Grantee. "Wetland" or "wetlands" means portions of the Property defined by any State or federal laws as a wetland or wetlands at the time of the proposed activity.

H. Animal and Plant Life

There shall be no removal or destruction of plant and animal species, except as necessary for: (1) Forest Management, as permitted under the Terms of Article II.A.1.; (2) control of diseases, pests and non-native species; (3) public health and safety purposes; (4) Public Recreational use and Private Recreation use, as permitted under the Terms of Article II.A.2. and (5) any other activity for which prior written approval has been obtained from Grantee. Except as may be necessary for the control of pests or exotic species and subject to the prior written approval of Grantee, there shall be no intentional introduction of animal species which are not indigenous to the State of Delaware.

I. Signs and Billboards

No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the Property except signs not exceeding three (3) feet by three (3) feet for each of the following purposes: (1) to state the name of the Property and the name and address of the occupant; (2) to advertise the Property's sale or rental; (3) to advertise the Forest Management and naturalistic uses of the Property; (4) to prevent trespassing; and (5) to recognize its protection by Grantees under this Conservation Easement, and State and local environmental or game laws.

J. Rights of Third Parties to Use the Property

Grantor may not authorize or allow a third party to use the Property in a manner inconsistent with the Terms of this Conservation Easement. Therefore, no right to use the Property, whether in the form of a right-of-way, easement, oil, gas or mineral lease or other right or interest in, on or through the Property, may be conveyed or permitted to be established in, on or through the Property, unless the right or interest is consistent with the Terms of this Conservation Easement. (These prohibitions do not apply to a right to use the Property that was in existence prior to this Conservation Easement unless said right was subordinated to this Conservation Easement.) Any and all renewals of hunting agreements and licenses existing as of the date of this Conservation Easement shall be made in writing and include an express provision that the renewal of such hunting agreements or licenses is subject and subordinate to the Terms of this Conservation Easement. Notwithstanding the foregoing, third party rights to use the Property may be granted in connection with uses or structures permitted by the Terms herein (such as the granting of rights of entry for contractors conducting Forest Management activities on the Property, for third parties using, constructing, maintaining, installing, repairing or replacing any Permanent Structures now or hereafter existing on the Property and for third parties engaging in Recreational Uses).

K. Public Access

This Conservation Easement does not grant to the public any right to access or any right to use the Property.

L. Reserved Rights

Except to the extent that prior written approval of Grantee is required by any paragraph of this Article for rights expressly reserved by Grantor in this Article II, all other activities and rights not prohibited by this Conservation Easement are considered to be consistent with the Terms of this Conservation Easement and require no prior notification or approval provided such activities will not (1) materially and adversely affect fish or wildlife habitat(s), (2) materially and adversely affect the protection of land or water areas on the Property, (3) materially interfere with the Purpose, or (4) materially interfere with the preservation of the Conservation Values of the Property. If Grantor has any doubt with respect to whether or not any particular use of the Property is prohibited by the Terms of this Conservation Easement, Grantor may submit a

written request to Grantee for consideration and approval of such use. Grantor also retains any and all obligations, costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property.

ARTICLE III. ENFORCEMENT AND REMEDIES

A. Remedies

Upon any breach of the Terms of this Conservation Easement by Grantor, Grantee may, after reasonable notice to Grantor, exercise any or all of the following remedies:

1. institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory; and
2. institute suits to require that the Property be restored promptly to the condition required by this Conservation Easement.

Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee at law or equity. If Grantor is found to have breached any of the Terms under this Conservation Easement, Grantor shall reimburse Grantee for any costs or expenses incurred by Grantee, including court costs and reasonable attorney's fees.

B. Effect of Failure to Enforce

No failure on the part of Grantee to enforce any Term hereof shall discharge or invalidate such Term or any other Term hereof or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

C. Right of Inspection

The Grantee and its respective employees and agents have the right, with reasonable notice to Grantor, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether Grantor is complying with the Terms of this Conservation Easement. This right of inspection does not include access to the interior of buildings and structures.

ARTICLE IV. EXHIBITS

The following exhibits are hereby made a part of this Conservation Easement:

A. Exhibit A: Boundary Description, Deed Reference and Parcel Identification is attached hereto and made a part hereof. Exhibit A consists of five (5) pages.

B. Exhibit B: Summary of Conservation Values is attached hereto and made a part hereof. Exhibit B consists of one (1) page.

C. Exhibit C: Standards for Forest Stewardship Plan is attached hereto and made a part hereof. Exhibit C consists of one (1) page.

These exhibits reflect the existing uses, conservation values and structures on the Property as of the date of this Conservation Easement.

ARTICLE V. MISCELLANEOUS

A. Notification by Grantors of a Grant, Conveyance or Other Transfer

In order to provide clear notice of a change in ownership of the Property, Grantor shall notify Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is to be granted, conveyed or otherwise transferred at or prior to the time said transfer is consummated. Grantor further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent deed or other legal instrument by which any interest in the Property is granted, conveyed or otherwise transferred. Grantor shall provide a copy of this Conservation Easement to all subsequent owners of the fee simple interest of any part or all of this Property.

B. Effect of Laws Imposing Affirmative Obligations on the Grantor

In the event that any applicable State or federal law imposes affirmative obligations on owners of land which if complied with by Grantor would be a violation of a Term of this Conservation Easement, Grantor shall: (i) if said law requires a specific act without any discretion on the part of Grantor, comply with said law and give Grantee written notice of Grantor's compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time Grantor begins to comply; or (ii) if said law leaves to Grantor discretion over how to comply with said law, use the method most protective of the conservation values of the Property listed in Exhibit B.

C. Notices to Grantee and Grantor

Any notices required to be given by a party hereto pursuant to any Term hereof shall be sent by registered or certified mail, return receipt requested to the addresses set forth below or to such other address as a party may establish in writing on notification to all other parties hereto.

If to Grantors: The Conservation Fund
584 Bellerive Drive #3-D
Annapolis, Maryland 21401
Attention: Regional Counsel

With a copy to: The Conservation Fund
1800 North Kent Street, Suite 1120
Arlington, Virginia 22209
Attention: General Counsel

And

If to Grantees: Department of Agriculture
2320 South DuPont Hwy
Dover, DE 19901
Attention: Austin Short, State Forester
Phone: (302) 698-4548
Fax: (302) 697-6245

D. Approval of Grantees

In any case where the Terms of this Conservation Easement require the approval of Grantee, such approval shall be requested by written notice to Grantee. Such approval shall be deemed given unless within sixty (60) days after receipt of notice either of Grantees mail notice to Grantor of disapproval and the reason(s) therefor. Unless Grantee's approval is deemed given in accordance with the prior sentence, any approval shall be written. Grantee will take into account the Terms and purposes of this Conservation Easement in determining whether to give such approval.

E. Assignment by Grantees and Effect of Dissolution of Grantees

Grantee may assign, upon prior written notice to Grantors, their rights under this Conservation Easement to any "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code and only with assurances that the purposes of this Conservation Easement will be maintained, and, if any such assignee shall be dissolved or shall abandon this Conservation Easement or the rights and duties of enforcement herein set forth the Conservation Easement and rights of enforcement shall revert to Grantee; and if Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then the Governor of the State of Delaware, or its successors or assigns, shall appoint an appropriate successor as Grantee; any such successor shall be a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code. No assignment may be made by Grantee of their rights under this Conservation Easement unless Grantee, as a condition of such assignment, requires the assignee to carry out the conservation purposes of this Conservation Easement.

F. Grantee Holds for Conservation Purposes

Grantee agrees to hold this Conservation Easement exclusively for conservation purposes, as defined in Section 170(h)(4)(A) of the Internal Revenue Code.

G. Amendment

This Conservation Easement may only be amended by a written document that is executed by Grantor and Grantee, and recorded among the land records of the appropriate

jurisdiction for the Property; provided that any amendment shall not be inconsistent with the purpose of this Conservation Easement, shall not affect its perpetual duration and shall only be allowed if, in the opinion of Grantee, the amendment as a whole strengthens the conservation Terms of this Conservation Easement.

H. Mortgages and Deeds of Trust

Grantor hereby represents and warrants to the Grantee that there no mortgages and deeds of trust affecting the Property, as of the date of this Conservation Easement.

I. Condemnation

By acceptance of this Conservation Easement by Grantee, the purposes of the Property as restricted for Forest Management, natural and cultural resource preservation are hereby considered to be the highest public use of the Property. Whenever all or part of the Property is taken in the exercise of eminent domain, so as to abrogate, in whole or in part, the restrictions imposed by this Conservation Easement, or this Conservation Easement is extinguished, in whole or in part, by other judicial proceeding, Grantor and Grantee shall be entitled to proceeds payable in connection with the condemnation or other judicial proceedings in an amount equal to the current fair market value of their relative real estate interests. Any costs of a judicial proceeding allocated by a court to Grantors and Grantees shall be allocated in the same manner as the proceeds are allocated.

J. Construction

This Conservation Easement shall be construed pursuant to the purpose of this Conservation Easement and the laws of the State of Delaware and the conservation purposes of this Conservation Easement.

K. Effect of Laws and Other Restrictions on the Property

The Terms of this Conservation Easement shall be in addition to any local, State or federal laws imposing restrictions to the Property and any real estate interests imposing restrictions to the Property.

L. Entire Agreement and Severability of the Terms

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

M. Successors

The terms "Grantor" and "Grantee" wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and their personal representatives, heirs, successors, and assigns and the above-named Grantee and their successors and assigns. Any action or inaction of the Grantor shall be deemed to include any action or inaction taken by the Grantor's representatives, agents, contractors and subcontractors.

N. Recordation

Grantee shall record this instrument for Grantee, Grantor and the State of Delaware in a timely fashion among the Land Records in Sussex County, Delaware and Grantee may re-record it at any time as may be required to preserve their rights under this Conservation Easement.

O. Real Property Taxes

Except to the extent provided for by State or local law, nothing herein contained shall relieve Grantor of the obligation to pay taxes in connection with the ownership or transfer of the Property.

P. Captions

The captions in this Conservation 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 Terms of this Conservation Easement.

Q. Authorization

Grantor authorizes the Soil Conservation District and any other entities or government agencies to release to Grantee information contained in Grantor's Soil Conservation and Water Quality Plan, Forest Stewardship Plan, Forest Management Plan or any other information applicable to the Terms of this Conservation Easement.

TO HAVE AND TO HOLD unto the State of Delaware, to the use of the Department of Agriculture its successors and assigns, forever. The covenants agreed to and the terms, conditions and restrictions imposed as aforesaid shall be binding upon Grantor its agents, assigns and all other successors to it in interest, and shall continue as a servitude running in perpetuity with the Property.

AND said Grantor hereby covenants that it has not done or suffered to be done any act, matter of thing whatsoever, to encumber the property hereby conveyed, that they will warrant specially the Property granted and that they will execute such further assurances of the same as may be requisite.

IN WITNESS WHEREOF, Grantor and Grantee have hereunto set their hands and seals the day and year above written.

WITNESSED:

GRANTOR:
The Conservation Fund

G. Jean Pompa

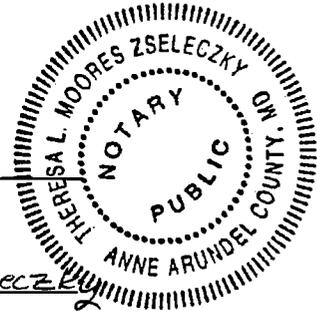
By: Jodi R. O'Day (SEAL)
Name: **Jodi R. O'Day**
Title: **Vice President
& Regional Counsel**

STATE OF MARYLAND, COUNTY of ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY, that on this 15th day of December, 2004, before me the subscriber, a Notary Public of the State aforesaid, personally appeared JODI R. O'DAY, the Vice President of The Conservation Fund known to me (or satisfactorily proven) to be a Grantor of the foregoing Deed of Conservation Easement and acknowledged that he/she executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Theresa L. M. Zselezky
Notary Public



Print Name: Theresa L. M. Zselezky

My Commission Expires: 05/01/06

ACCEPTED BY THE GRANTEE:

The State of Delaware, Department of Agriculture

By: Michael T. Scuse (SEAL)
Name: MICHAEL T. SCUSE
Title: DELAWARE SECRETARY OF AGRICULTURE

STATE OF DELAWARE, COUNTY of KENT, TO WIT:

I HEREBY CERTIFY, that on this 9th day of December, 2004, before me the subscriber, a Notary Public of the State aforesaid, personally appeared Michael T. Scuse, the Secretary of the Department of Agriculture of the State of Delaware, known to me (or satisfactorily proven) to be a Grantee of the foregoing Deed of Conservation Easement and acknowledged that he/she executed the same for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Mark F. Dunkle
Notary Public

Print Name: Mark F. Dunkle

My Commission Expires: N/A

**MARK F. DUNKLE
DELAWARE LAWYER
NOTARIAL OFFICER
29 Del. C. §4323 (a) (3)**