

ATTACHMENT 1

CONSERVATION EASEMENT

The Property is a relatively natural habitat of fish, wildlife, plants and ecological communities. The specific conservation values of the Property are set forth in the Baseline Report of The Nature Conservancy's Retained Conservation Easement on the Dragon Run (Heartwood Forestland Fund VI Limited Partnership) Property dated January 21, 2010 (the "Baseline Report"), prepared by Conservancy and signed and acknowledged by Grantee. Conservancy and Grantee have the common desire and purpose to protect the conservation values of the Property described in the Baseline Report and wish to create a conservation easement in favor of Conservancy pursuant to the Virginia Conservation Easement Act, Virginia Code § 10.1-1009 *et seq.*, and the Conservancy and Grantee wish to avail themselves of the provisions of that law. The conservation values of the Property are further described below:

- A. Conservancy and Grantee have the common purpose of conserving in perpetuity the Property's conservation values as natural habitat and as open space land in the public interest and as an economically viable and productive working forest.
- B. As required under §10.1-1010(E) of the Conservation Easement Act, the use of the Property for open space land conforms to the 2006 King and Queen County Comprehensive Plan, as more particularly set forth in this paragraph. The Property is in part located in King and Queen County and accordingly certain portions of the Property are subject to the Dragon Run Protection Overlay in King and Queen County's zoning ordinance that limits land uses immediately adjacent to the stream. The future land use designations for this Property are (a) Rural Development Area, which determines future land use as forests, agriculture and rural residential subdivisions, and (b) Dragon Run Swamp Preservation Area, which defaults to and includes provisions set forth by the Chesapeake Bay Preservation Act (Va. Code §§ 10.1-2100 – 10.1-2116).
- C. As required under §10.1-1010(E) of the Conservation Easement Act, the use of the Property for open space land conforms to the 2001 Middlesex County Comprehensive Plan, as more particularly set forth in this paragraph. The Property is in part located in Middlesex County and is zoned as Low Density Rural pursuant to the Middlesex County Comprehensive Plan adopted December 4, 2001. The Low Density Rural district is intended to preserve the rural and scenic character of the county, particularly its shoreline, by providing for a low density mixture of the primary uses of agriculture and forestry and secondary residential, recreational and selected non-intensive commercial and public or quasi-public uses throughout a major portion of the County. The Property is also under the authority of the provisions set forth by the Chesapeake Bay Preservation Act (Va. Code Section 10.1-2100 - 10.1-2116).

- D. As required under §10.1-1010(E) of the Conservation Easement Act, the use of the Property for open space land conforms to the 2003 Essex County Comprehensive Plan, as more particularly set forth in this paragraph. The Property is in part located in Essex County and accordingly certain portions of the Property are subject to the Dragon Run Protection Overlay in Essex County's zoning ordinance that limits land uses immediately adjacent to the stream.
- E. Conservancy is a qualified holder under the Conservation Easement Act, to-wit: Conservancy is a national non-profit corporation exempt from taxation under §501(c)(3) of the Internal Revenue Code of 1986, as amended (the "IRC"), organized and existing under the laws of the District of Columbia; Conservancy has had a principal office in Virginia for more than five years; Conservancy is organized and operated primarily for the purposes of protecting natural resources and the natural values of real property, especially the natural habitat of fish, wildlife, and plants. Conservancy has the resources to enforce the restrictions in this Conservation Easement.
- F. The conservation values of the Property that this Conservation Easement is intended by the parties to protect include the following:
- 1) The Nature Conservancy identified the Dragon Run and Mattaponi Rivers as high-priority Aquatic Conservation Areas in the Chesapeake Bay Lowlands Ecoregional Plan completed in October, 2001. The Nature Conservancy and its partners in the development of the plan utilized more than 120 sources of environmental data to identify those aquatic and terrestrial conservation sites of excellent condition, sufficient size and viable context.
 - 2) The Nature Conservancy also identified the Dragon Run Forest Conservation Area as a priority forest of high integrity and viability. The Dragon Run Forest Conservation Area contains more than 275,000 acres of forest cover which provides interior nesting, stopover and foraging habitat for neotropical migratory and resident bird populations. The conservation area provides suitable habitat for summer breeding and reproduction. The Nature Conservancy also identified the forest conservation area as an opportunity not only for the protection of forest resources but for the restoration of a mixed pine and hardwood forest which can be protected and buffered by working forest management.
 - 3) The Dragon Run aquatic system contains an exemplary tidal and non-tidal Bald Cypress swamp forest community and provides habitat for more than 50 species of fish, more than 90 species of birds and more than 25 state and globally rare plants and animals.
 - 4) The Mattaponi River aquatic system is an exemplary tidal freshwater system which supports increasingly healthy anadromous fish populations. While both culturally and historically important, the annual migratory runs of American shad (*Alosa sapidissima*), hickory shad (*Alosa mediocris*), alewife (*Alosa aestivalis*) and blueback

herring (*Alosa pseudoharengus*) provide recreational and more importantly, nutrients that support the ecosystem of the Mattaponi River.

- 5) The Mattaponi River (and the Pamunkey River) from West Point north to Route 360 were identified as an Important Bird Area by the Audubon International. The important bird area designation demonstrates the importance of the forest cover and tidal freshwater system of the Mattaponi River for migratory birds, waterfowl and resident bird species.
- 6) The Property contains substantially undeveloped land that, by virtue of its size or by virtue of its location adjacent to rivers, streams, or other waterways, serves to protect water quality and/or quantity, hydrological integrity, riparian and/or aquatic habitat, or drinking-water supplies.
- 7) The Property contains wetlands, which are lands with characteristic hydric soils that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- 8) The Property contains riparian vegetated buffers along rivers, streams and wetlands of at least one hundred (100) feet in width, in which natural vegetation is maintained and degradation by livestock is prevented.
- 9) Protection of the Property provides significant public benefit by contributing to protection of the Chesapeake Bay. The Property contains approximately 62 linear miles of frontage on tributaries to Dragon Run and the Mattaponi River, which flow into the Chesapeake Bay. In the Chesapeake 2000 Agreement, the Governor of the Commonwealth of Virginia and the Administrator of the United States Environmental Protection Agency acknowledged "that future development will be sustainable only if we protect our natural and rural resource land, limit impervious surfaces and concentrate new growth in existing population centers." A goal of the Chesapeake 2000 Agreement is to "expand the use of voluntary and market-based mechanisms such as easements...to protect and preserve natural resource lands." The Commonwealth of Virginia established the Virginia Water Quality Improvement Fund in part to meet its commitments under the Chesapeake Bay Agreement. §10.1-2124 of the Code of Virginia (1950), as amended ("the Code"). The Fund provides grants for projects including "the acquisition of conservation easements related to the protection of water quality and stream buffers." The 2006 Annual Report of the Virginia Land Conservation Foundation, dated May 2007, states that meeting Virginia's land conservation goals under the Chesapeake 2000 Agreement "requires the conservation of 308,451 acres by 2010 or 77,113 acres per year...Continued preservation activity by Virginia's land trusts and the local governments through PDR programs also will advance progress toward these targets." (pp. 16).

- 10) Protection of this Property also provides significant public benefit by contributing to the goal of Virginia Governor Timothy Kaine's administration, announced in April 2006, to achieve and surpass the obligations under the Chesapeake 2000 Agreement by preserving an additional 400,000 acres of land in Virginia by 2010.
- 11) Dragon Run and the Mattaponi River are located in the largest relatively unfragmented forest in the lower Chesapeake Bay. Identified as the Dragon Run Forest Conservation Area in the Chesapeake Bay Lowlands Ecoregional Plan developed by The Nature Conservancy, the conservation area is approximately 275,000 acres in size. While primarily privately owned, the forest resources of the conservation area have been managed for loblolly pine and mixed hardwood stand growth. The forest resources of the conservation area have been managed for timber income, water quality protection and wildlife and habitat values. These forests have served as the foundation for the local economy in the Middle Peninsula; the "working forests" of the Dragon Run and Mattaponi watersheds support the economic and cultural livelihood of the region. More importantly, the working forests of the conservation area have protected water quality in the Dragon and Mattaponi River as forest management has included stream buffers that filter pollutants and sediment. The high water quality in both the Dragon and Mattaponi aquatic systems is a result of the extensive working forest resources of the conservation area.

G. The characteristics and condition of the Property as of the date of this Conservation Easement, the Property's current uses, and the current state of improvements on the Property are described in Baseline Report. Grantee and Conservancy hereby acknowledge that the Baseline Report is a complete and accurate representation of the Property as of the date of this Conservation Easement. The Baseline Report will be used by Grantee and Conservancy to assure that any future changes in the use of the Property will be consistent with the terms of this Conservation Easement. However, the Baseline Report is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.

NOW, THEREFORE, Conservancy, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein reserves and retains a Conservation Easement in perpetuity over the Property of the nature and character as follows:

1. **PURPOSES.** The purposes of this Conservation Easement are as follows: to ensure that the Property will be retained forever predominantly in its natural and scenic condition; to protect water quality within the Chesapeake Bay watershed; to protect the unfragmented nature of the forestland; to protect native plants, animals, or plant communities on the Property; to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property described above, while allowing for traditional uses on the Property that are compatible with and not destructive of the conservation values of the Property, such as limited construction, forest management, hunting, recreation, and fishing.

Grantee will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the purposes of this Conservation Easement. Nothing in this Conservation Easement shall require Grantee to take any action to restore the condition of the Property after any act of God or other event over which Grantee had no control. Grantee understands that nothing in this Conservation Easement relieves it of any obligation or restriction on the use of the Property imposed by law.

2. **PROPERTY USES.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following is a listing of activities and uses which are expressly prohibited or which are expressly allowed. The Conservation Easement divides the Property into three areas: Building Envelopes, Forested Areas and Stream and Wetland Conservation Areas which areas are depicted in Exhibit B. This Conservation Easement covers multiple Compartments, which names are listed in Exhibit C. Grantee and Conservancy have determined that the activities and uses allowed in each defined area do not impair the conservation values of the Property. Additional rights of Grantee are set forth in Paragraph 4 below.

2.1 Subdivision.

(a) Each of the following Compartments shall not be divided, subdivided or partitioned, nor conveyed or pledged for a debt except in such Compartment's current configuration as an entity: KL2106, KL2156, KL6677, KL6724, NT2602, NT6605, NT6632, NT6752, SD2151, SD2192, SD2197, SD6653, SD6671, SD6684, SD6734, YK2140, YK2172, YK2616, YK6738, and YK6774.

(b) Grantee may subdivide the following Compartments, at Grantee's option, into no more than two (2) parcels each: BK 2142, BK2604, BK6699, KL2143, SD6701, and YK1808. These Compartments shall not be further divided or subdivided. For the purposes of this paragraph, Compartments YK2162 and YK2117 shall be combined, and Grantee may subdivide such combined Compartment into no more than two (2) parcels.

(c) Grantee may subdivide the following Compartment, at Grantee's option, into no more than six (6) parcels: SD2105. This Compartment shall not be further divided or subdivided.

2.2 Building Envelopes.

(a) Building Envelopes are areas of not more than two (2) acres in size each, in which Grantee has the right to construct or maintain Improvements without the further consent of Conservancy, including the right to build Residences and associated appurtenances such as lawns. Grantee shall also have the right, for commercial purposes or otherwise, to engage in agricultural, conservation, equestrian, and silvicultural activities within Building Envelopes. Grantee may breed, raise, and pasture swine, dairy cattle, poultry and fowl within the Building Envelopes provided that the numbers of such animals on the

Property shall not constitute the operation of a Hog Farm, Dairy Operation, or Poultry House.

(b) There shall be no more than one (1) Building Envelope permitted on a Compartment for each allowed subdivision. In the event of the subdivision of a Compartment in accordance with Paragraph 2.1 creating a parcel on which a Building Envelope may be established, one (1) Building Envelope shall be allocated to such parcel unless the instrument of subdivision provides otherwise.

(c) All Residences must be constructed within the Building Envelopes.

(d) Building Envelopes shall be located in a manner that causes the least disturbance as practicable to the conservation values of the Property and shall be configured as follows:

- (i) Within three hundred (300) feet of existing public roads shown on Exhibit B;
- (ii) Not located in the Stream and Wetland Conservation Areas;
- (iii) Adjacent to a parcel boundary; and
- (iv) In a shape that minimizes the intrusion into the surrounding parcel, e.g., roughly square.

2.3 Forested Area.

(a) In order to maintain the unfragmented condition and natural habitat of the Forested Area, the existing forested acreage shall remain in a forested condition and shall not be converted to other uses. Livestock are prohibited in, and shall be prevented from entering, the Forested Area.

(b) Grantee shall have the right to conduct forest management activities in Forested Areas, for commercial purposes or otherwise, including all activities related to the establishment, growth, maintenance, cutting, destruction and removal (including the use of biocides) of trees, shrubs, or plants on the Property and primary processing of trees, shrubs, or plants harvested on the Property.

(c) Forest management activities shall be either (i) certified by an independent third-party certification agent who is accredited by either the Forest Stewardship Council ("FSC"), or a successor to FSC, as fully complying with standards for sustainable forest management practices issued by the FSC as described in the Regional Forest Stewardship Standard of the Southeast Region, or by another third-party certification agent approved by Conservancy, or (ii) pursuant to a Forest Management Plan approved in writing by the Conservancy in advance of any timber harvesting activities or road construction, and to

be revised every twenty (20) years and submitted to the Conservancy for written approval. The Conservancy shall have the right to monitor Grantee's activities to ensure compliance with the Plan.

(d) If forest management activities are certified by FSC per paragraph 2.3(c)(i), Grantee shall submit a Forest Management Plan to Conservancy for review to ensure that such plan complies with this Conservation Easement, but such plan shall not require Conservancy's approval. This plan shall be submitted not less than sixty (60) days prior to any harvesting of trees or other forest products on the Property.

(e) No more than ten (10) percent of a Compartment, or subsequently subdivided parcel, may be managed under a short-rotation regime. For purposes of this restriction, a "short-rotation regime" means the clearcutting or removal of more than 50% of merchantable trees or other forest products less than fifteen (15) years old, but excludes pre-commercial and commercial thinning, which are permitted hereunder.

(f) The siting, construction, and maintenance of new and existing Roads and skid trails must meet then-existing silvicultural best management practices, as set forth in "Virginia's Forestry Best Management Practices for Water Quality (Virginia Department of Forestry, 2002)" and its successors, as modified by the limitations set forth in Paragraph 2.4.

(g) The construction of Utilities in the Forested Areas requires the written consent of Conservancy prior to construction thereof.

2.4 Stream and Wetland Conservation Areas.

(a) In order to protect aquatic habitats and water quality, within the Stream and Wetland Conservation Areas (as defined in Paragraph 3(N) below), activities shall be subject to the following limitations:

- (i) There shall be no Building Envelopes.
- (ii) There shall be no constructing or placing of any Improvements, Roads, or Utilities. Existing Improvements and Constructed Features which exist within the Stream and Wetland Conservation Areas as of the date of execution of this Conservation Easement may be maintained, repaired and replaced, but not enlarged.
- (iii) There shall be no livestock. If livestock are kept or maintained on the Property, they shall be excluded from the Stream and Wetland Conservation Areas by fencing to be installed and maintained by Grantee.
- (iv) There shall be no removal, destruction, or cutting of trees, shrubs, or plants, except as to facilitate permitted uses.

- (v) There shall be no use of fertilizers or biocides without the prior written approval of Conservancy.
- (vi) There shall be no use of motorized vehicles except on existing and permitted Roads as expressly permitted herein.

(b) Permitted Activities. Notwithstanding the foregoing, the following activities are permitted within the Stream and Wetland Conservation Areas:

- (i) Grantee shall have the right to install Utilities in the Stream and Wetland Conservation Areas with prior written consent of Conservancy. Utilities shall be located in a manner that causes the least disturbance as practicable to the conservation values of the Property.
- (ii) Grantee shall have the right to construct and maintain Stream Crossings and associated Roads as required for permitted residential, agricultural or forest management activities with prior written consent of Conservancy. Stream Crossings shall be located and constructed in a manner that causes the least disturbance as practicable to the conservation values of the Property and must meet then-existing silvicultural best management practices, as set forth in "Virginia's Forestry Best Management Practices for Water Quality (Virginia Department of Forestry, 2002)" and its successors.
- (iii) Grantee shall have the right to construct Trails, provided Trails are no more than four (4) feet in width and no trees (other than Invasive Plants) over two (2) inches in diameter at breast height ("dbh") are to be removed to construct Trails.
- (iv) Grantee shall have the right to remove dead, damaged or diseased trees that pose a safety hazard. Grantee may remove dead or diseased trees in the non-wetland portions of the Stream and Wetland Conservation Areas that pose a forest health hazard, subject to Conservancy's prior written consent to such removal.

(c) Forest Management Activities in Excluded Stream and Wetland Areas. In the event that Grantee engages in forest management activities (as defined in Paragraph 2.3(b) above) in areas of the Property that are not within the Stream and Wetland Conservation Areas as depicted on Exhibit B, but because of their hydrologic condition or vegetation such areas are in fact jurisdictional wetlands, then all forest management activities within such areas shall be conducted in compliance with applicable best management practices promulgated by the Virginia Department of Forestry or other appropriate agency, and in compliance with the Chesapeake Bay Preservation Act (Va.

Code § 10.1-2100 *et seq.*) and all state and local rules and regulations promulgated pursuant thereto.

2.5 General Requirements. The following requirements apply to all activities and uses of the Property unless an exception is specifically provided.

(a) Existing Improvements and Constructed Features. Grantee shall have the right to maintain, remodel, repair, and enlarge in accordance with the limitations of Paragraph 2.2 Existing Improvements and Constructed Features on the Property (as described and detailed in the Baseline Report), and in the event of their destruction, to reconstruct any such Existing Improvement or Constructed Feature with another of similar size, function, capacity, location and material.

(b) Utilities. Grantee shall have the right to install Utilities necessary to accommodate permitted Improvements on the Property except that there shall be no new underground fuel tanks other than one underground propane gas tank per Residence. Grantee may not consent to the construction or placement of Utilities on the Property that serve entities and/or users located off the Property (a communications tower for example) without the prior written consent of Conservancy. Conservancy's consent shall only be granted if the construction or placement of such Utilities would not undermine the conservation values of the Property or would produce a smaller impact than if those Utilities were located on an adjoining or nearby property.

(c) Roads. Grantee shall have the right to construct Roads and install associated culverts necessary to accommodate permitted activities. Roads shall be no more than twenty (20) feet in width, and an area of no more than thirty (30) feet in width may be cleared of natural vegetation in the construction of Roads. Land cleared in the construction of the Road (excluding the road itself) shall be re-forested or re-vegetated as soon as possible following construction.

(d) Trails. Grantee shall have the right to construct Trails of reasonable extent to provide non-motorized access to areas of the Property and/or to accommodate recreational activities.

(e) Recreational Uses. Grantee shall have the right to engage in and permit others to engage in recreational uses of the Property, including, without limitation, hunting, fishing, hiking, biking and equestrian activities, provided that these activities do not directly harm the conservation purposes of this Conservation Easement, including but not limited to, water quality protection and prevention of soil erosion.

(f) Home Business. Grantee shall have the right to conduct a home business in the Residence of a person residing on the Property in accordance with applicable laws, regulations and ordinances, provided that the home business does not directly harm the conservation values protected by this Conservation Easement.

(g) Commercial Use and Development. Unless otherwise provided for herein, any commercial or industrial use of, or activity on, the Property is prohibited.

(h) Invasive Plants and Invasive Animals. Grantee may not introduce Invasive Plants or Invasive Animals to the Property or water bodies occurring on the Property. However, Conservancy may give consent for such introduction to address a defined land management concern, such as short-term erosion mitigation using annual grasses.

(i) Land Disturbance. Except as necessary to accommodate the activities expressly permitted under this Conservation Easement, there shall be no change in the topography of the Property, or disturbance of the soil in any manner. In no event shall mining or hydrocarbon extraction be permitted on the Property.

(j) Water Management. There shall be no alteration or pollution of surface or subsurface water, including wetlands. Grantee shall have the right to extract subsurface water necessary to accommodate permitted activities, except that any extraction of subsurface water for irrigation purposes in the Forested Area shall require the prior written approval of the Conservancy.

(k) No Dumping. There shall be no dumping of trash, garbage, or other unsightly or offensive material, hazardous substances, or toxic waste on the Property. Nothing in this Paragraph shall prevent the storage (in reasonable quantities, solely for use on the Property) and use of hazardous materials for agricultural and domestic purposes, the creation of brush piles, composting, or the storage of operable farm machinery, organic matter, agricultural products or byproducts as long as such practices are conducted in accordance with applicable laws and regulations.

(l) Ecological Restoration Activities. If Conservancy reasonably determines that such activities are consistent with the purposes of this Conservation Easement, Conservancy or Grantee may, subject in any event to mutual prior written consent, engage, and permit others to engage, in restoration activities, pertaining to, without limitation, wetlands, stream banks, riparian areas, ponds and other impoundments, Invasive Plant or Invasive Animal infestations, or fire regime.

(m) Signage. No signs or billboards or other advertising displays are allowed on the Property, except that signs whose placement, number and design do not significantly diminish the scenic character of the Property may be displayed to state the name and address of the Property and the names of persons living on the Property, to advertise or regulate permitted on-site activities, to advertise the Property for sale or rent, and to post the Property to control unauthorized entry or use.

(n) Outdoor Lighting. Outdoor lighting is permitted provided: (i) it is placed no more than twenty (20) feet high and at least (60) feet from Forested Areas and Stream and Wetland Conservation Areas, and (ii) all lamps other than moderate intensity porch lights

are fully shielded, such that all light emitted by the fixture is directed toward the ground. Use of mercury vapor lights is prohibited.

(o) Additional Protection. Nothing in this Conservation Easement shall prohibit Grantee from further restricting its activities and operations on the Property beyond what is required by this Conservation Easement, including in connection with any program or regulatory scheme (whether private or public) designed to sequester carbon emissions and to provide transferable credits associated with the same.

2.6 Consent. For those activities that require the consent of Conservancy, Grantee shall submit plans to the Conservancy for its review. The plans shall be sufficiently detailed to allow the Conservancy to fully evaluate the activity's conformance to the Conservation Easement, including but not necessarily limited to location and size of the proposed Improvements or Constructed Features. No activity requiring consent may take place until the Conservancy reviews and approves the plans. The Conservancy agrees that if the activity is consistent with the terms and provisions of this Conservation Easement, the Conservancy's approval shall not be unreasonably withheld.

2.7 Density. Neither the Property nor any portion of it shall be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferable development rights scheme, cluster development arrangement or otherwise; provided, however, that with prior written permission of Conservancy, this paragraph shall not preclude such transfer of development rights resulting from the destruction or demolition of any existing residential building on the Property.

3. **DEFINITIONS.** As used in this Conservation Easement:

- A. **Building Envelopes** – Those areas in which Grantee shall have specific rights as more fully described in this Conservation Easement, including the right to construct Improvements and Residences (defined below). Building Envelopes may be relocated as agreed to in writing by the Grantee and Conservancy.
- B. **Compartment** – A portion of the Property designated for management thereof. A list of Compartments is attached hereto as Exhibit C.
- C. **Dairy Operation** – An enclosed structure or area that regularly houses more than six (6) head of adult dairy cattle.
- D. **Existing Improvements and Constructed Features** – Those existing structures, facilities, header dams, Utilities (defined below), Roads (defined below), Trails (defined below), and other man-made additions to the natural environment located on

the Property as of the date of this Conservation Easement and described and depicted in the Baseline Report.

- E. Forest Management Plan – A written plan prepared by a professional forester including, as a minimum: (1) a statement of Grantee's forest management goals and objectives; (2) a map showing legal access, forest stands, predominant topographic and hydrographic features, existing and proposed Roads and Stream Crossings, and other Improvements; (3) forest stand descriptions including species composition, stocking levels, age classes, volumes and, where available, soil types; (4) a detailed description of forest management activities and timber harvests to be employed to accomplish each of the forest management objectives; (5) inventory and description of protection methods for rare, threatened or endangered species and other unique natural, geological or historic resources in targeted management areas which may require special treatment; (6) discussion of the location and construction of Roads and Stream Crossings and description of efforts to minimize disturbance within the Stream and Wetland Conservation Area; and (6) post-cutting treatments, including the re-vegetation of skid Roads and logging decks with non-Invasive Plant seed mixes.
- F. Forested Areas – Those forested or wooded areas of the Property as shown in Exhibit B and as described and depicted in the Baseline Report and any alterations in the area thereof, as agreed to in writing by Grantee and Conservancy.
- G. Hog Farm – An enclosed structure or area that regularly houses more than four (4) head of swine older than six (6) weeks.
- H. Improvements – Improvements consist of any building, structure, or man-made addition to the Property, including but not limited to Residences (defined below), out-buildings, sheds, barns, tree-houses, house and office trailers, tennis and other recreation courts, and swimming pools placed, built, or constructed on the Property. For the purposes of this definition, Improvements do not include Roads (defined below), Trails (defined below), Utilities (defined below), fences, signs, or movable items not affixed to real estate that have a *de minimis* impact on ground area.
- I. Invasive Animals – Animals, including pests and pathogens, identified on the most current list promulgated by the Commonwealth of Virginia or the federal government, which Conservancy shall notify Grantee is the list that shall be binding on Grantee for purposes of this Conservation Easement.
- J. Invasive Plants – Plants included on the most current list of Virginia Department of Conservation and Recreation's "Invasive Alien Plant Species of Virginia" or, if such list ceases to be published, a similar list promulgated by the Commonwealth of Virginia or the federal government, which Conservancy shall notify Grantee is the list that shall be binding on Grantee for purposes of this Conservation Easement.

- K. Poultry House – An enclosed structure or area that regularly houses more than one hundred (100) poultry or fowl greater than one (1) month old.
- L. Residence – An Improvement used for human habitation regardless of the number of days per year inhabited; a dwelling.
- M. Roads – Those access roads, driveways, or improved paths used to provide access to and within the Property by motorized and non-motorized means. The locations of existing Roads are described and depicted graphically in the Baseline Report.
- N. Stream and Wetland Conservation Areas – Those areas of the Property located within one hundred (100) feet of all permanent and intermittent streams, wetlands, manmade ditches (other than ditches constructed adjacent to highways or roads for the drainage thereof), and ponds, as measured from the edge of the stream or feature under normal conditions, and including the stream, wetland, manmade ditch, pond or other water feature itself; and additional designated areas of the Property with special conservation significance. The extent and location of Stream and Wetland Conservation Areas are shown in Exhibit B and are described and depicted graphically in the Baseline Report. Stream and Wetland Conservation Areas may be expanded as agreed to in writing by the Grantee and Conservancy. Grantee and Conservancy agree that Exhibit B shall be reviewed and may be revised every fifty (50) years (beginning on the fiftieth anniversary of the date hereof) to determine if the extent of the Stream and Wetland Conservation Areas has changed at that time as determined by the National Wetlands Inventory (or the successor thereto as adopted by the federal and state regulatory authorities with jurisdiction over wetlands and streams), then current aerial or remote sensing data, and other relevant information available to the parties to determine the location of all permanent and intermittent streams, wetlands, manmade ditches, and ponds, and the one hundred (100) foot buffer therefrom as measured from the edge of the stream or feature under normal conditions, and including the stream, wetland, manmade ditch, pond or other water feature itself, and additional designated areas of the Property with special conservation significance. If the extent of the Stream and Wetland Conservation Areas has changed, then the revised Exhibit shall be added to the Baseline Documentation Report for this Conservation Easement and recorded in the county recording offices where this Conservation Easement is recorded.
- O. Stream Crossing – A structure installed across a stream or watercourse to serve permitted uses on the Property.
- P. Trails – Those trails and paths used to provide access to and within the Property by non-motorized means only. Trails shall be either unimproved paths or shall be constructed of permeable materials and are not to exceed four (4) feet in width.
- Q. Utilities – Those structures or facilities necessary to supply power, water, sewage disposal, and other amenities. Utilities include but are not necessarily limited to

power lines, poles, solar panels, personal wind turbines, and associated electrical hardware; water tanks, water wells and associated distribution lines; geothermal wells and associated lines; septic tanks, septic fields, and distribution boxes; fuel tanks; and antennas, satellite dishes, security system components and lines, communication lines, and cable lines.

4. **ADDITIONAL RIGHTS OF GRANTEE.** Grantee shall have the following additional rights:

4.1 Existing Uses. The right to undertake or continue any activity or use of the Property not prohibited by this Conservation Easement. Prior to making any change in use of the Property, Grantee shall notify Conservancy in writing to allow Conservancy a reasonable opportunity to determine whether such change would violate the terms of this Conservation Easement.

4.2 Transfer. The right to sell, give, mortgage, lease, or otherwise convey the Property subject to the terms of this Conservation Easement.

5. **CONSERVANCY'S RIGHTS.** To accomplish the purpose of this Conservation Easement, the following rights are retained by Conservancy:

5.1 Right to Enforce. The right to preserve and protect the conservation values of the Property and enforce the terms of this Conservation Easement.

5.2 Right of Entry. The right of Conservancy's staff, contractors and associated natural resource management professionals to enter the Property after prior written notice to Grantee, for the purposes of:

- (i) Inspecting the Property to determine if Grantee is complying with the covenants and purposes of this Conservation Easement;
- (ii) Monitoring and research as described below;
- (iii) Management of Invasive Plants and Invasive Animals as described below; and
- (iv) Enforcing the terms of this Conservation Easement.

Prior written notice is not required if Conservancy is entering upon the Property because of an ongoing or imminent violation that could, in the sole discretion of Conservancy, substantially diminish or impair the conservation values of the Property, as described in Paragraph 8 herein. Such right of entry shall include the permanent right to cross other lands of Grantee for access to the Property. If Conservancy causes any damage to the Property when exercising its rights under this paragraph, it shall be responsible for the costs of repairing such damage for which it is solely responsible.

- 5.3 Monitoring and Research. The right, but not the obligation, to monitor the plant and wildlife populations, plant communities and natural habitats on the Property, which activities shall be subject to the prior approval of the Grantee, which approval shall not be unreasonably withheld. Grantee shall cooperate with Conservancy in establishing, at no expense to Grantee, a written monitoring and research plan to direct the monitoring of and research on plant and wildlife populations, plant communities and natural habitats on the Property. Grantee agrees that all monitoring activity, natural resource inventory and assessment work or other natural resource research, conducted by Grantee or others, shall be reported to Conservancy.
- 5.4 Management of Invasive Plants and Invasive Animals. The right, but not the obligation, to control, manage or destroy Invasive Plants and Invasive Animals that threaten the conservation values of the Property. Conservancy and Grantee will mutually agree, in writing, to the management activities prior to the commencement of such activities.
- 5.5 Discretionary Consent. Conservancy's consent for activities otherwise prohibited under Paragraph 2 above may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the prohibited activities listed in Paragraph 2 are deemed desirable by both Grantee and Conservancy, Conservancy may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission shall be in writing and shall describe the proposed activity in sufficient detail to allow Conservancy to judge the consistency of the proposed activity with the purpose of this Conservation Easement. Conservancy may give its permission only if it determines, in its sole discretion, that such activities (i) do not violate the purpose of this Conservation Easement and (ii) either enhance or do not impair any significant conservation interests associated with the Property. Notwithstanding the foregoing, Conservancy and Grantee have no right or power to agree to any activities that would result in the termination of this Conservation Easement.
- 5.6 Right of First Offer. Grantee shall give written notice to Conservancy that Grantee intends to offer the Property or a portion thereof or interest therein (in any event, the "Offering"), for sale, and stating the terms and conditions of the proposed sale in an offer (the "Offer"). The Conservancy shall have thirty (30) days after receipt of Grantee's notice to notify Grantee of its election to purchase the Offering in accordance with the terms of the Offer. If the Conservancy timely notifies the Grantee, the Grantee shall submit to the Conservancy and the Conservancy shall execute and deliver to the Grantee within seven (7) days after receipt thereof, a purchase and sale agreement containing all of the terms set forth in the Offer and such other customary terms and conditions as shall then be reasonable and standard in agreements for the purchase and sale of property similar to the Offering.

If the Conservancy does not exercise its right of first offer and the Grantee consummates a sale or other disposition under the terms and conditions contained in the Offer, notice of which shall have been given as provided herein, the Conservancy's rights under the terms of this agreement shall cease and have no further effect as to the Offering sold in

accordance with the Offer; provided, however, that if a sale or other disposition is for only a part of the Property or only a partial interest therein, the failure of the Conservancy to exercise its right of first offer shall not operate to terminate its right of first offer with respect to any remaining part of the Property. If the Conservancy does not exercise its right of first offer, and the Grantee intends to make a sale or other disposition of the Offering at a purchase price that is more than twenty percent (20%) less than that set forth in the Offer, then in such event, the Grantee shall submit an Offer upon such terms to the Conservancy, as provided above.

If the Conservancy does not exercise its right of first offer and the Grantee does not consummate a sale or other disposition, the Conservancy's rights under this Paragraph 5.6 shall continue in full force and effect.

6. RESPONSIBILITIES OF GRANTEE AND CONSERVANCY NOT AFFECTED.

Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligation of Grantee as owner of the Property. Among other things, this shall apply to:

- (i) Taxes. Grantee shall be solely responsible for payment of all taxes and assessments levied against the Property.
- (ii) Upkeep and Maintenance. Grantee shall be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law. Conservancy shall have no obligation for the upkeep or maintenance of the Property.
- (iii) Insurance. Grantee agrees to maintain adequate liability insurance on the Property.

7. ACCESS. No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement. However, the public has the right to view the Property from adjacent publicly accessible areas such as public roads and waterways.

8. ENFORCEMENT. If Conservancy becomes aware of a violation of the terms of this Conservation Easement, Conservancy shall give notice to Grantee of such violation and request corrective action sufficient to abate such violation and restore the Property to its previous condition at the time of this grant. Grantee agrees that the Baseline Report, also known as a Baseline Documentation Report, shall be deemed to provide objective information concerning the Property's condition at the time of this grant. Failure by Grantee to abate the violation and take such other corrective action as may be requested by Conservancy within thirty (30) days after receipt of such notice shall entitle Conservancy to bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement; to require the restoration of the Property to its previous condition; to enjoin the non-compliance by *ex parte* temporary or permanent injunction in a court of competent jurisdiction; and/or to recover any damages arising from the noncompliance. Such damages, when recovered, may be applied by

Conservancy, in its sole discretion, to corrective action on the Property. If the court determines that Grantee has failed to comply with this Conservation Easement, Grantee shall reimburse Conservancy for any costs of restoration in addition to any other payments ordered by such court.

In the event that any party hereto shall bring an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action shall be entitled to its court costs and reasonable attorneys' fees to be paid by the non-prevailing party as fixed by the court.

8.1 Emergency Enforcement. If Conservancy reasonably determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Conservancy may pursue its remedies under this paragraph without prior notice to Grantee or without waiting for the period for cure to expire.

8.2 Failure to Act or Delay. Conservancy does not waive or forfeit the right to take action as may be necessary to ensure compliance with this Conservation Easement by any prior failure to act and Grantee hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act or delay by Conservancy, its successors or assigns, in acting to enforce any restriction or exercise any rights under this Conservation Easement.

8.3 Violations Due to Causes Beyond Grantee's Control. Nothing herein shall be construed to entitle Conservancy to institute any enforcement proceedings against Grantee for any changes to the Property due to causes beyond Grantee's control, such as changes caused by fire, flood, storm, earthquake or the unauthorized wrongful acts of third persons with the exception that water impoundments must be repaired or restored to their natural flow. In the event of violations of this Conservation Easement caused by the unauthorized wrongful acts of third persons, Grantee agrees, upon request by Conservancy, to assign its right of action to Conservancy, to join in any suit, or to appoint Conservancy its attorney-in-fact for the purposes of pursuing enforcement action, all at the election of Conservancy.

8.4 Standing. By virtue of Conservancy's reservation of rights under this Conservation Easement, it shall be entitled, at its option, to standing before appropriate courts of law to pursue remedies or other matters which are necessary or incidental to the protection of the Property which is subject to this Conservation Easement.

9. **TRANSFER OF CONSERVATION EASEMENT.** The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable. Conservancy shall have the right to transfer or assign this Conservation Easement to an organization that at the time of transfer is a "qualified organization" under Section 170(h) of the IRC, and the organization expressly agrees to assume the responsibility imposed on Conservancy by this Conservation Easement. If Conservancy ever ceases to exist or no longer qualifies under IRC § 170(h) or applicable state law, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the responsibility.

10. **TRANSFER OF PROPERTY.** Any time the Property, or any interest therein, is transferred by Grantee to any third party, Grantee shall notify Conservancy in writing at least

thirty (30) days prior to the transfer of the Property, and the document of conveyance shall expressly refer to this Conservation Easement.

11. **AMENDMENT OF CONSERVATION EASEMENT.** This Conservation Easement may be amended only with the written consent of Grantee and Conservancy. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall comply with § 170(h) of the IRC, or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with the Conservation Easement Act, or any regulations promulgated pursuant to that law. Grantee and Conservancy have no right or power to agree to any amendment that would affect the enforceability of this Conservation Easement.

12. **TERMINATION OF CONSERVATION EASEMENT.** Grantee hereby agrees that at the time this Conservation Easement is retained by the Conservancy, this Conservation Easement gives rise to a real property right, immediately vested in Conservancy, with a fair market value of the Conservation Easement as of the date of the conveyance that is at least equal to the proportionate value that this Conservation Easement at the time of the conveyance bears to the fair market value of the Property as a whole at that time. That proportionate value of Conservancy's property rights shall remain constant.

When a change in conditions takes place which makes impossible or impractical any continued protection of the Property for conservation purposes, and the restrictions contained herein are extinguished by judicial proceeding, Conservancy, upon a subsequent sale, exchange or involuntary conversion of the Property, shall be entitled to a portion of the proceeds at least equal to that proportionate value of the Conservation Easement (minus any amount attributable to new Improvements allowed under this Conservation Easement made as of the date of the sale, exchange or conversion, which amount shall be reserved to Grantee). Conservancy shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in and defined under P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended and in regulations promulgated thereunder.

13. **EMINENT DOMAIN.** Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Grantee and Conservancy shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, which proceeds shall be divided in accordance with the proportionate value of Conservancy's and Grantee's interests, and Conservancy's proceeds shall be used as specified above. All expenses incurred by Grantee and Conservancy in such action shall be paid out of the recovered proceeds.

14. **INTERPRETATION.** This Conservation Easement shall be interpreted under the laws of the Commonwealth of Virginia, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

15. **INDEMNIFICATION.** Each party agrees to hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of the activities of the other party on the Property that causes injury to a person(s) or damage to property.

16. **INTENTIONALLY DELETED**

17. **NOTICES.** Any notices required by this Conservation Easement shall be in writing and shall be personally delivered or sent by certified or registered mail, return receipt requested, or nationally recognized overnight courier, to Grantee and Conservancy, respectively, at the following addresses, unless a party has been notified by the other of a change of address.

To Grantee:	To Conservancy:
c/o The Forestland Group LLC 1516 E. Franklin Str., Suite 104 Chapel Hill, NC 27514	Legal Department The Nature Conservancy 490 Westfield Road Charlottesville, VA 22901
With a copy to:	With a copy to:
Victor P. Haley Sutherland 999 Peachtree Street NE Atlanta, GA 30309	The Nature Conservancy Virginia Field Office 490 Westfield Road Charlottesville, VA 22901

18. **ENVIRONMENTAL CONDITION.** Grantee warrants that it has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, subject to those matters revealed in that certain supplemental Phase I Environmental Report prepared SLR Corporation and dated January 13, 2010.

19. **SEVERABILITY.** If any provision of this Conservation Easement is found to be invalid, the remaining provisions shall not be altered thereby.

20. **PARTIES.** Every provision of this Conservation Easement that applies to Grantee or Conservancy shall also apply to their respective heirs, executors, administrators, assigns, and all other successors as their interest may appear.

21. **RE-RECORDING.** In order to ensure the perpetual enforceability of the Conservation Easement, Conservancy is authorized to re-record this instrument or any other appropriate notice or instrument.

22. **MERGER.** The parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

23. **SUBSEQUENT LIENS ON PROPERTY.** No provisions of this Conservation Easement should be construed as impairing the ability of Grantee to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinate to this Conservation Easement.

24. **ACCEPTANCE & EFFECTIVE DATE.** As attested by the signature of the authorized representative of The Nature Conservancy affixed hereto, Conservancy hereby accepts without reservation the rights and responsibilities as reserved by this Deed and Conservation Easement. This Conservation Easement is to be effective the date recorded in the Clerk's Offices of the Circuit Courts of King and Queen, Essex and Middlesex Counties, Virginia.

TO HAVE AND TO HOLD, this reservation of Conservation Easement unto the Conservancy, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantee and Conservancy, intending to legally bind themselves, have set their hands and seals on the date first written above.

CONSERVANCY:

THE NATURE CONSERVANCY,
a District of Columbia non-profit corporation

By: Linda L. Crowe
Linda L. Crowe
Director of Land Protection

COMMONWEALTH OF VIRGINIA

~~CITY~~/COUNTY OF Albemarle

The foregoing instrument was acknowledged before me this 27th day of January, 2010 by Linda L. Crowe, who is Director of Land Protection of THE NATURE CONSERVANCY, a District of Columbia non-profit corporation, on behalf of said corporation.

Registration No.: 237883

Susan B. Cresap
NOTARY PUBLIC

My commission expires:
6-30-2010



GRANTEE:

HEARTWOOD FORESTLAND FUND VI LIMITED
PARTNERSHIP, a North Carolina limited partnership

By: Heartwood Forestland Advisors VI, LLC, a North
Carolina limited liability company, its General Partner

By: The Forestland Group, LLC, a North Carolina limited
liability company, its Manager

By: Blake H. Stansell
Blake H. Stansell, III
Vice President - Investments

STATE OF North Carolina

CITY/COUNTY OF Orange

The foregoing instrument was acknowledged before me this 27 day of January, 2010 by Blake H. Stansell, III, who is Vice President – Investments, of The Forestland Group, LLC, a North Carolina limited liability company, on behalf of the limited liability company, as manager of Heartwood Forestland Advisors VI, LLC, general partner of Heartwood Forestland Fund VI Limited Partnership.

Registration No.: _____

Leslie B. Lee
NOTARY PUBLIC

My commission expires:

October 4, 2010

