

VCR 404 Creek
aka Mt. Pleasant

[Note: This Conservation Easement has been drafted by the Conservancy as an accommodation to the Grantor. The Conservancy does not represent the interests of the Grantor. The Conservancy strongly advises the Grantor to review this document with the Grantor's attorney.]

CONSERVATION EASEMENT

THIS DEED OF GIFT OF CONSERVATION EASEMENT ("Conservation Easement"), exempt from all recordation taxes pursuant to Virginia Code Sections 58.1-811(D) and (F), is made this ____ day of June, 2003, by and between ANTISPRAWL, LLC, a Virginia limited liability company located at 2242 Arlington Chase Road, Cape Charles, Virginia 23310 (the "Grantor"), and THE NATURE CONSERVANCY, a District of Columbia nonprofit corporation, maintaining a Virginia Coast Reserve program office at 11332 Brownsville Road, P.O. Box 158, Nassawadox, Virginia, 23413 (the "Grantee").

RECITALS:

A. The Grantor is the owner in fee simple of certain property (the "Property") situate in Eastville District, Northampton County, Virginia, more particularly described on the attached Exhibit A, incorporated herein by this reference, which consists of approximately four hundred eighteen and one half (418.5) acres, and is generally known as the Mount Pleasant Farm.

B. The Property is a significant natural area that qualifies as a "...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder; specifically the Property includes riparian wetland and marshland and is a unique natural area which provides significant habitat for fish, wildlife and plants and which has substantial value as a natural, scenic and educational resource. The Property contains a nesting site for bald eagle (*Haliaeetus leucocephalus*) and also provides critical migratory pathways for numerous species of neotropical and temperate migratory birds, including warblers, vireos, thrushes, cuckoos and tanagers. Preservation of the multiple stories of vegetation on the Property protects the staging and feeding areas for migrating songbirds, many of which continue to experience sharp declines in their global populations due in part to the fragmentation of migration corridors.

C. The Grantee is a non-profit corporation incorporated under the laws of the District of Columbia as a tax exempt public charity under Section 501(c)(3) and 509(a)(1) of the Internal Revenue

Code, qualified under Section 170(h) of the Internal Revenue Code to receive qualified conservation contributions, and whose purposes include, inter alia, preservation of natural areas for aesthetic, scientific, charitable and educational purposes.

D. The Grantee has established on the Eastern Shore of Virginia, the Virginia Coast Reserve (hereinafter "the Reserve"), which has been designated by the United Nations as a "Biosphere Reserve", the purpose of which is to preserve and protect the unique ecological integrity and biological diversity of the barrier island lagoon system of the Virginia barrier islands, including islands, adjacent marshes, waterways, mudflat communities and other natural habitat.

E. The Property includes wetlands and marshes, forested areas, farmland, and open areas and also has ecological, scientific, educational and aesthetic value as a "buffer area" adjacent to and directly and indirectly affecting the quality and ecological health and well-being of other lands and waters owned or managed by the Grantee and comprising a part of the Reserve.

F. Preservation of the Property and of the Reserve is for the scenic enjoyment of the general public, and preservation of the Property and of the Reserve is pursuant to international, federal, state and local governmental conservation policy including protecting natural resources.

G. The Commonwealth of Virginia has authorized the creation of Conservation Easements pursuant to the Virginia Conservation Easement Act, Va. Code Sec. 10.1-1009 to 1016 (the "Act"), and the Grantor and Grantee wish to avail themselves of the provisions of that law.

H. The Grantor and Grantee recognize the natural scenic, aesthetic, and special character of the riparian wetland and marshland on the Property and have the common purpose of conserving and protecting the natural values of the Property itself, as well as controlling the uses of the Property so as to insure the continued high quality of the adjacent waters, wetlands and marshes, and the health, well-being, integrity and maintenance of the quality of the Reserve, and preventing the use or development of the Property for any purpose or in any manner which would conflict with the maintenance of the Reserve in its current, natural, scenic and ecologically healthy condition for this generation and future generations by the conveyance to the Grantee of a Conservation Easement on, over and across the Property which shall, subject to the terms and conditions of this Conservation Easement, conserve the natural values of the Property, conserve and protect the special animal and plant populations, and prevent the use or development of the Property for any purpose or in any manner which would conflict with the maintenance of the Property as a natural, open, and sparsely

developed area consistent with its essential function as a buffer area for the Reserve, for this generation and future generations.

I. The specific conservation values of the Property are documented in a Baseline Report, also known as an Easement Documentation Report, prepared by Grantee and signed and acknowledged by the Grantor, that establishes the baseline condition of the Protected Property at the time of this grant and includes reports, maps, photographs, and other documentation.

J. Grantor and Grantee desire to ensure the perpetuation of the conservation values of the Property and the preservation of this unique natural area that will be of great importance to the citizens of the Commonwealth of Virginia, will be of substantial public benefit, and will help protect the Reserve.

NOW, THEREFORE, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein and as an absolute and unconditional gift, the Grantor does hereby give, grant and convey unto the Grantee a Conservation Easement in perpetuity over (with the right in perpetuity to restrict the use of, as described below) the Property of the nature and character as follows:

1. **PURPOSE.** The purpose of this Conservation Easement is to ensure that the Property will be retained forever predominantly in its natural and scenic condition; 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 residential construction, selective timber harvesting and farming of existing fields, and hunting.

Grantor 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. However, unless otherwise specified below, nothing in this Conservation Easement shall require the Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no control. Grantor understands that nothing in this Conservation Easement relieves them 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. Grantor and Grantee have determined that the allowed activities do not impair the conservation values of the Property. Additional retained rights of Grantor are set forth in Paragraph 3 below.

2.1 Subdivision. The Property may be subdivided or partitioned into no more than three (3) lots or parcels. At no time shall any lot or parcel include more than one (1) Residential Unit. A Residential Unit shall be defined as one single family dwelling with a detached guest cottage as defined in paragraph 2.19 herein (a "Guest Cottage") and associated non-habitable outbuildings such as a detached garage and a storage shed. The parties acknowledge that such Residential Units may be occupied by a single family and social guests of the owner thereof, and the Residential Unit may be leased in its entirety, but in no event shall commercial use or occupancy (as a lodge, inn, hotel, camp or otherwise) of such structure(s) be permitted.

2.2 Construction. Grantor shall have the right to construct three new Residential Units, each with one new single family residence for the use of the owner or tenant of the associated Residential Unit. The existing historic home located on the Property shall be the single-family residence for one of the Residential Units permitted hereunder. Should Grantor elect not to reconstruct the existing historic home located on the Property, the historic home shall be completely removed and a newly constructed single family residency may be substituted as the single-family residence associated with the Residential Unit for that parcel. All single family residences, associated non-habitable outbuildings and improvements on the Property shall be located to the West of the existing hedgerow that runs in a generally North-South direction approximately half way up the slope from the lower elevations of the farm to the upper elevations, as depicted in the Baseline Report. New construction to the East of said hedgerow shall be limited to Guest Cottages only, as defined in Paragraph 2.19 herein. Grantor may construct driveways (to be constructed solely of permeable materials), utilities and wells required to serve the new Residential Units. Any septic drain fields must be located a minimum distance of two hundred (200) feet from any wetlands, tidal waters or perennial streams. On each of the three (3) lots or parcels,

Grantor shall have the right to construct one boat dock, for the personal use of the owner or tenant of the associated Residential Unit on that lot or parcel, provided that access to the dock is located within the View Shed (as defined in Paragraph 2.19 hereof) for the Guest Cottage allowed on that lot or parcel. In no event shall more than seven percent (7%) of the total square footage of the Property be occupied by structures, buildings, roads, driveways, recreational courts, swimming pools, gardens, patios, lawns, boardwalks, docks, garages, kennels, decks, sheds, blinds, and parking areas. Furthermore, no more than four percent (4%) of any area within five hundred (500) feet of a wetland or waterbody shall be developed, paved or otherwise covered by impermeable surfaces. Except as provided herein, no other structures may be placed or constructed on the Property without the consent of the Grantee. Furthermore, there shall be no constructing or placing of any utility pole (other than those necessary to service the Property's improvements), wind turbine, utility or communications tower, conduit or line on or above the Property. No paving of roads or driveways with impermeable surfaces shall be permitted. Outdoor lighting shall be placed and shielded so as to minimize the impact on the surrounding area. Any removal or clearing of native vegetation including forest, understory and herbaceous plants except those resulting from forestal operations consistent with a Forest Management Plan as provided in Section 2.18 hereof, shall be compensated by the Grantor through the restoration of an equally-sized area of native vegetation of a similar type in either an existing field on the Property or in any other area of the Property which is not currently vegetated with native species. An airplane landing strip is permitted only if the entire landing strip is located above the thirty (30) foot elevation contour line, has a permeable surface, and the location of said landing strip is approved in writing to the Grantor and the Grantee by the Virginia Department of Game and Inland Fisheries. Said airplane landing strip is restricted for the private use of the owner of the parcel upon which the strip is located. Any construction of improvements, including without limitation all residences, outbuildings, guest cottages, driveways, and the above -mentioned landing strip, shall be carried out in accordance with all state, federal and local laws, regulations and ordinances,

including without limitation the Endangered Species Act (16 U.S.C. § 1531-1544) and the Bald Eagle Protection Act (16 U.S.C. § 668), with respect to any bald eagle or bald eagle nest on the Property. The Grantor shall not seek or apply for a take, incidental take or any other license or permit that will result in an adverse impact on any bald eagle or bald eagle nest without the prior written consent of the Grantee.

2.3 Existing Improvements. Grantor shall have the right to maintain, remodel, and repair existing structures, causeways, water tanks, fences, corrals, water wells, utilities, and other improvements, and in the event of their destruction, to reconstruct any such existing improvements with another of similar size, function, capacity, location and material.

2.4 Agricultural Use. Grantor shall have the right to plant, raise and harvest crops in existing fields on the Property and to perform primary processing of, store and sell, including direct sales to the public, crops and agricultural products harvested and produced principally on the Property. Notwithstanding the foregoing, Grantor shall not use plastic mulch, commonly referred to as "plasticulture" on the Property. Grantor may not establish or maintain any poultry house or poultry farm, hog farm or commercial feedlot on the Property. A commercial feedlot is defined for the purpose of this Conservation Easement as a confined area or facility within which the land is not grazed or cropped at least annually and which is used to receive livestock that has been raised off the Property for feeding and fattening for market. Existing fields are defined for the purpose of this Conservation Easement as those fields used for agricultural activities at the time of recordation of this Conservation Easement, as identified in the Baseline Report. Grantor may not remove or clear any existing wildlife habitat to create or expand agricultural fields.

2.5 Grazing. Grantor shall not graze or pasture domestic animals (including without limitation, horses, cattle, sheep, goats and other ungulates) on the Property for commercial purposes. This restriction shall not prevent the grazing or pasturing of animals used for Grantor's or Grantor's guest's recreation.

2.6 Home Businesses. Any business that is conducted by, and in the home of, a person residing on the Property, is allowed if consistent with applicable laws, regulations

and ordinances.

- 2.7 Recreational Uses. Grantor shall have the right to engage in and permit others to engage in recreational uses of the Property, including, without limitation, hunting and fishing, that require no surface alteration or other development of the land. Pursuit of wildlife by any form of motorized transportation is not allowed. Fishing and hunting shall include, without limitation, the recreational gathering of shellfish. The use of motorized terrestrial vehicles and airboats in the marsh and inter-tidal area is strictly prohibited. Introduction of non-native animals is prohibited.
- 2.8 Excavation. Except as necessary to accommodate the activities expressly permitted under this easement, there shall be no ditching, draining, diking, filling, excavating, dredging, removal of topsoil, sand, gravel, rock, minerals or other materials, mining, drilling or removal of minerals or petroleum, nor any building of roads or change in the topography of the Property or disturbance in the soil in any manner. Notwithstanding the foregoing to the contrary, Grantor may construct an irrigation or a wildlife pond on the Property provided Grantor obtains the necessary approvals and permits from local, state, and/or federal government agencies, and provided such pond does not require the removal of any woodlands or natural habitat. Sand removed for the construction of the pond allowed herein may be used for the construction and/or maintenance of roads or driveways on the Property.
- 2.9 Protection of Migratory Bird Habitat. Activities permitted pursuant to this Conservation Easement shall be designed, located and carried out in a manner that avoids and protects existing and restored migratory bird habitat, specifically wooded areas, scrub/shrub growth and forest understory. The right to selectively harvest and thin timber for the purpose of improving the habitat for migratory birds and enhancing the overall ecological health of the forest has been reserved for twenty (20) years subsequent to the date of this Conservation Easement through a timber deed reservation by the Grantee. Prior to commencing any such thinning, Grantee shall have a Forest Management Plan prepared by a professional forester, and shall provide Grantor with a copy of said plan. All thinning activities shall be accomplished in accordance with said plan and the Virginia Department of Forestry best management

practices, and shall be accomplished under the supervision of the Grantee's forestry consultant with oversight of a forester employed by the Grantee. Grantee shall notify Grantor at least thirty (30) days prior to commencing any cutting of timber. Grantee shall not have the right to conduct any forestal operations on that portion of the Property that lies within one hundred (100) feet of the edge of any wetlands and/or lies within one hundred (100) feet of the edge of any open field. Upon the expiration of the twenty (20) year timber reservation, then consistent with a Forest Management Plan as described in Section 2.18 hereof, Grantor shall have the right to thin timber, cut and remove diseased or exotic trees, shrubs, or plants, and to cut firebreaks, and any such activity inconsistent with such Forest Management Plan or the Baseline Report shall require the prior written approval of the Grantee, except that such approval shall not be required in case of emergency firebreaks. Once construction of Residential Units is completed, there shall be no additional removal, harvesting, destruction or cutting of native trees, shrubs or herbaceous plants related to the permitted property uses under this Conservation Easement except for the ordinary maintenance of yards. Except for use around improvements or in gardens, there shall be no planting of non-native trees, shrubs or herbaceous plants on the Property. The introduction of Invasive Alien Plant Species as defined and listed by the Virginia Department of Conservation and Recreation, Division of Natural Heritage, is expressly prohibited. Furthermore, except to accommodate the activities expressly permitted under this easement, including agricultural operations and forestal operations consistent with a Forest Management Plan as provided in Section 2.18 hereof, there shall be no use of fertilizers, plowing, or disturbance or change in the natural habitat in any manner. Where thinning of wooded areas is undertaken by Grantor, such thinning shall be conducted in accordance with a Forest Management Plan as described in Section 2.18. This paragraph shall apply equally to existing habitat, restored habitat areas and to existing fields upon commencement of habitat restoration or abandonment of agricultural practices.

- 2.10 Hydrology. Other than the construction of wells to serve allowed improvements and the irrigation or game pond allowed in Paragraph 2.8 herein, there shall be no

alteration, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies on the Property. Other than the docks allowed in Paragraph 2.2, there shall be no construction of additional docks, wharves, piers, bulkheads or other shore-hardening facilities.

2.11 Signage. No signs, 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.

2.12 No Biocides. There shall be no use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides. Such pesticides or biocides may be used as needed around improvements on the Property, in existing agricultural fields and as approved by Grantee to control invasive species detrimental to the conservation values of the Property.

2.13 No Dumping. There shall be no storage or dumping of trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, or under the Property; except as expressly allowed herein, there shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall activities be conducted on the Property or on any the adjacent property owned by Grantor, that could cause erosion or siltation on the Property.

2.14 No Pollution. There shall be no pollution, of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall activities be conducted on the Property that would be detrimental to water quality or purity or that could alter the natural water level or flow in or over the Property.

2.15 Predator Control. Grantor shall have the right to control, destroy, or trap predatory and problem animals which pose a material threat to livestock and/or humans by means and methods approved by Grantee. The method employed shall be selective and specific to individuals, rather than broadcast, nonselective techniques.

2.16 Protection of Wetlands and Water Quality. The Grantor may place, for the use of Grantor and its invitees, blinds and boardwalks on the wetlands located on the Property provided that any such structures shall permit the natural movement of water and preserve the natural contour of the ground, and provided Grantor obtains all necessary federal, state, and local permits. Except as required by Grantor in connection with permitted View Sheds as hereinafter defined, all land within one hundred (100) feet of tidal marshes, wetlands, mudflats, water bodies, streams and man-made drainage ditches shall be maintained as a natural buffer strip of forest, scrub shrub and/or natural vegetation growth, with no plowing or disturbance of the substrate. Application of agricultural chemicals or pesticides (except as approved by the Grantee for the control of invasive species) is not permitted within one hundred (100) feet of tidal marshes, wetlands, mudflats, water bodies, streams and man-made drainage ditches. Except as otherwise permitted herein, no additional buildings, structures or impervious surfaces may be built within these buffer strips without the prior written approval of the Grantee, except minor walkways or driveways accessory to such permitted blinds and boardwalks that do not impinge upon wetlands. Structures, if any, that exist within these buffer strips as of the date of execution of this Conservation Easement and which do not meet these standards may be maintained, repaired and replaced, but not enlarged except as expressly provided herein. In constructing any improvements permitted hereunder, the Grantor shall use best efforts to prevent the post-development nonpoint source pollution runoff load from exceeding the pre-development load. All restrictions in this Paragraph 2.16 for the protection of wetlands shall be measured from wetlands as they exist as of the date of this Conservation Easement. In the event that the location of wetlands changes from the currently existing locations, nothing in this Conservation Easement shall be read as requiring or prohibiting removal or relocation of such structures, decks, porches or surfaces. All new improvements and new construction must comply with the provisions of this Conservation Easement as conditions exist at the time construction is begun.

- 2.17 Commercial Development. Any commercial or industrial use of or activity on the Property, other than those relating to agriculture, timber harvest pursuant to a forest management plan, or home businesses as permitted herein, is prohibited.
- 2.18 Forest Management Plan. Grantor shall have the right to harvest timber from the Property pursuant to a Forest Management Plan, to be updated at least every ten (10) years, that is prepared by a professional forester and approved by Grantee and that is designed to insure the maintenance of good quality growing stock of native tree species, while protecting soil stability, water quality and other conservation values of the Property, including without limitation, scenic, riparian and wildlife habitat values. Migratory bird habitat, consisting of wooded areas, scrub/shrub growth and forest understory, shall not be removed or destroyed in order to create new pine plantations. However, any agricultural field in existence as of the date of this Conservation Easement may be planted as a pine plantation and subsequently reverted to an agricultural field after harvest of such pine trees.
- 2.19 Guest Cottages. Guest Cottages, as described in this Conservation Easement, shall be defined as follows and subject to the following limitations:
- A. The footprint (including attached porches, decks, patios, and like structures) of any Guest Cottage shall not exceed 800 square feet.
 - B. There shall be no construction or improvements closer than one hundred (100) feet to any wetland.
 - C. Septic fields, holding tanks, or any other sewage waste disposal system or component thereof shall be no closer than two hundred (200) feet to any wetland.
 - D. There shall be no clearing of trees, understory or other vegetation for the construction and maintenance of Guest Cottages and their yards more than twenty (20) feet from the nearest point of such Guest Cottage with the exception of (i) access driveways and/or foot paths, neither of which shall have a cleared width that exceeds twelve (12) feet, and (ii) limited clearing for permitted View Sheds as described in the following paragraph.
 - E. A View Shed for a Guest Cottage shall be defined as that area between the Guest Cottage and the nearest marsh edge with a width not to exceed the width of the

Guest Cottage, and a depth not to exceed two hundred (200) feet. The View Shed shall be maintained by Grantor as a natural area, but in which area limited clearing may be accomplished to enhance the scenic view from a Guest Cottage, provided that any View Shed area remains covered with native grasses, shrubs, and/or trees.

F. Notwithstanding the limitations on occupancy of Guest Cottages set forth in Paragraph 2.1 herein, a Guest Cottage may be used as a caretaker's residence if the resident of the associated Residential Unit does not use same as their primary residence. That is, a Caretaker may be allowed to reside in the Guest Cottage if the associated main residence is used as a vacation home or a second home and is not occupied more than fifty percent (50%) of the then current calendar year.

2.20 Restoration of Natural Areas. To improve the connectivity of the woodlands lying to the north and south of the Property, the Grantor shall remove from agricultural production and allow to permanently revert to natural vegetation not less than the easternmost one-half (1/2) of the existing field located in the lower elevations between the north-south hedgerow referred to in Paragraph 2.2 (as shown in the Baseline Report) and the woodlands between the marsh and such field.

2.21 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 the Grantee, 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. **ADDITIONAL RIGHTS RETAINED BY GRANTOR.** Grantor retains the following additional rights:

3.1 Existing Uses. The right to undertake or continue any activity or use of the Property not prohibited by or contrary to the purposes of this Conservation Easement. Pursuant to Section 1.170A-14(g)(5)(ii) of the Internal Revenue Regulations, prior to exercising any reserved right that may have an adverse impact on the conservation interests associated with this Conservation Easement, Grantor shall notify Grantee in writing to allow Grantee a reasonable opportunity to determine whether the exercise of such right would violate the terms of this Conservation Easement.

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

3.3 Rights Retained by Grantor. The Grantor reserves to itself all rights with respect to the Property other than those specifically prohibited or limited by this Conservation Easement, including, but not limited to, the following: (A) the right to undertake or continue any activity or use of the Property not prohibited by this Conservation Easement, provided such activity or use is not inconsistent with the conservation purposes protected by this Conservation Easement, and (B) the right to deny the public entrance upon or use of the Property or any portion thereof. Although this Conservation Easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to or use of the Property, and the Grantor hereby retains the exclusive right to such access and use, subject to the terms of this Conservation Easement. Unless otherwise provided in this Conservation Easement, the rights retained by the Grantor under this Conservation Easement may be exercised without the permission of or notice to the Grantee.

4. **GRANTEE'S RIGHTS.** To accomplish the purpose of this Conservation Easement, the following rights are granted to Grantee by this Conservation Easement:

4.1 Right to Enforce. The right to enforce the terms of this Conservation Easement, including the right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or

use pursuant to Article 7 herein.

- 4.2 Right of Entry. The right of Grantee's staff, contractors and associated natural resource management professionals to enter the Property after prior written notice to Grantor, for the purposes of: (a) inspecting the Property to determine if Grantor is complying with the covenants and purposes of this Conservation Easement; (b) monitoring and research as described below; and (c) management of exotic and invasive species as described below. The Grantor or the Grantor's representative may accompany the Grantee's staff, contractors and associated natural resource management professionals on any such visit.
- 4.3 Monitoring and Research. The right, but not the obligation, to monitor the plant and wildlife populations, plant communities and natural habitats on the Property. Grantor shall cooperate with Grantee in establishing, at no expense to Grantor, 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. Grantor agrees that all monitoring activity, natural resource inventory and assessment work or other natural resource research, conducted by Grantor or others, shall be reported to Grantee.
- 4.4 Management of Exotics and Invasive Species. The right, but not the obligation, with the prior consent of the Grantor, to control, manage or destroy exotic non-native species or invasive species of plants and animals that threaten the conservation values of the Property.
- 4.5 Discretionary Consent. The Grantee's consent for activities otherwise prohibited or requiring Grantee's consent 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 the Grantor and Grantee, the Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and permission for activities requiring the Grantee's consent shall be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the purpose of this Conservation

Easement. The Grantee may give its permission only if it determines, in its sole discretion, that such activities (1) do not violate the purpose of this Conservation Easement and (2) either enhance or do not impair any significant conservation interests associated with the Property. Notwithstanding the foregoing, the Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement.

5. **RESPONSIBILITIES OF GRANTOR AND GRANTEE NOT AFFECTED.** Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantor, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

(a) *Taxes* - The Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.

(b) *Upkeep and Maintenance* - The Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent it may be required by law. The Grantee shall have no obligation for the upkeep or maintenance of the Property.

6. **ACCESS.** No right of access by the general public to any portion of the Property is conveyed by this Conservation Easement.

7. **GRANTEE'S REMEDIES.** If the Grantee becomes aware of a violation of the terms of this Conservation Easement, the Grantee shall give written notice to the Grantor as provided herein, and request corrective action sufficient to abate such violation and restore the Property to its previous condition prior to such violation. Grantor agrees that the Baseline Report shall be deemed to provide objective information concerning the Property's condition at the time of this grant. Failure by the Grantor to abate the violation and take such other corrective action as may be requested by the Grantee within thirty (30) days after receipt of such notice shall entitle the Grantee 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 prior to such violation; 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 the Grantee, in its sole discretion, to corrective action on the Property. If the court determines that the Grantor has failed to comply with this Conservation Easement, the Grantor shall reimburse the Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and reasonable attorneys fees, in addition to any other payments ordered by such court.

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

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

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

8. **TRANSFER OF EASEMENT.** The parties recognize and agree that the benefits of this easement are in gross and assignable. The Grantee shall have the right to transfer or assign this Conservation Easement to any private nonprofit organization that at the time of transfer, is a "qualified organization" under Section 170(h) of the U.S. Internal Revenue Code, and the organization expressly agrees to assume the responsibility imposed on the Grantee by this Conservation Easement. If the Grantee ever ceases to exist or no longer qualifies under Sec. 170(h)

or applicable state law, a court with jurisdiction shall transfer this easement to another qualified organization having similar purposes that agrees to assume the responsibility.

9. **TRANSFER OF PROPERTY.** Any time the Property, or any interest therein, is transferred by the Grantor to any third party, the Grantor shall notify the Grantee 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.

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

11. **TERMINATION OF EASEMENT.** If it is determined that conditions on or surrounding the Property have changed so much that it is impossible to fulfill the conservation purposes set forth above, a court with jurisdiction may, at the joint request of both the Grantor and Grantee, terminate this Conservation Easement.

If condemnation of a part of the Property or of the entire Property by public authority renders it impossible to fulfill any of these conservation purposes, the Conservation Easement may be terminated through condemnation proceedings.

At the time of the conveyance of this Conservation Easement to the Grantee, this Conservation Easement gives rise to a real property right, immediately vested in the Grantee. If the easement is terminated and the Property is sold or taken for public use, then, as required by Sec. 1.170A-14(g)(6) of the IRS regulations, the Grantee shall be entitled to a percentage of the gross sale proceeds or condemnation award (minus any amount attributable to new improvements made after the date of this conveyance, which amount shall be reserved to Grantor) equal to the ratio of the appraised value of this easement to the unrestricted fair market value of the Property, as these values

are determined on the date of this Conservation Easement. The Grantee shall use the proceeds consistently with the conservation purposes of this Conservation Easement.

12. **INTERPRETATION.** This Conservation Easement shall be interpreted under the laws of Virginia, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes as described in the Recitals above and in the Baseline Report.

13. **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.

14. **TITLE.** The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, including but not limited to, any deeds of trust or mortgages not subordinated to this Conservation Easement, and that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

15. **NOTICES.** Any notices required in this Conservation Easement shall be sent postage prepaid by registered or certified mail, return receipt requested, to the parties hereto at the following addresses or such other addresses as may be hereafter specified by notice in writing:

(Grantee)
The Nature Conservancy
P.O. Box 158
Nassawadox, Virginia 23413

With a copy to:

Division Attorney
The Nature Conservancy
Southern Resource Office
6114 Fayetteville Road, Suite 109
Durham, North Carolina 27713

(Grantor)
Antisprawl, LLC
Mr. Patrick Hand
2242 Arlington Chase Road
Cape Charles, Virginia 23310

16. **SEVERABILITY.** If any provision of this Conservation Easement or the application thereof to any person or circumstance is determined by a court having jurisdiction thereof to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

17. **SUCCESSORS AND ASSIGNS.** The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this grant shall be binding upon the Grantor and Grantee and their agents, personal representatives, heirs, successors and assigns, and all other successors to them in interest and shall continue as a servitude running in perpetuity with the Property.

18. **TITLE.** Grantor covenants and represents that it is seized of the Property in fee simple and has right to grant and convey this Conservation Easement, that the Property is free and clear of any and all encumbrances, and that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

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

20. **HAZARDOUS WASTE.** Grantor does further covenant and represent that to the best of its knowledge, information and belief, no hazardous substances or toxic wastes exist nor has been generated, treated, stored, used, disposed of, deposited in or on the Property that have not been fully disclosed, except for the use of such substances as may be or have been from time to time, common in the course of agricultural practices, and that they know of no underground storage tanks located on the Property whose presence, age and location have not been fully disclosed.

21. **COMPLIANCE WITH LAWS.** The conveyance of this Conservation Easement by the Grantor to the Grantee shall not relieve Grantor of the obligation and responsibilities to obtain any and all applicable federal, state, and local governmental permits and approvals, if necessary, to

exercise Grantor's retained rights and uses of the Property even if consistent with the conservation purposes of this Conservation Easement.

22. **RE-RECORDING.** The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Easement; for such purpose, the Grantor appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any necessary instrument on its behalf. Without limiting the foregoing, the Grantor agrees to execute any such instruments upon request.

23. **CAPTIONS.** The captions herein have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.

24. **COUNTERPARTS.** This Conservation Easement may be executed in counterparts by the parties. It is not necessary that the signatures of the parties appear on the same counterpart or counterparts. All counterparts shall collectively constitute a single instrument.

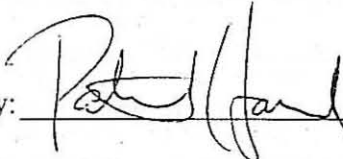
25. **ACCEPTANCE.** Acceptance by The Nature Conservancy of this conveyance is authorized by Sections 10.1-1009 and 1010 of the Virginia Code, and is evidenced by its execution of this Conservation Easement below.

WITNESS the following signatures and seals; and

IN WITNESS WHEREOF, The Nature Conservancy, a District of Columbia non-profit corporation, has caused this Conservation Easement to be executed on its behalf by its duly authorized representative.

GRANTOR:

ANTISPRAWL, LLC

By:  (SEAL)

Its: OPERATING MANAGER

ACCEPTED this 27th day of June, 2003:

THE NATURE CONSERVANCY,
a District of Columbia nonprofit corporation

By: David F. Harris

Its: Director of Land Programs of the
Virginia Coast Reserve Field Office

COMMONWEALTH OF VIRGINIA)
COUNTY OF NORTHAMPTON) SS.

The foregoing instrument was acknowledged before me this 27th day of
JUNE, 2003 by Patrick Hand, OPERATING MGR of ANTISPRAWL, LLC.

Clinton G. Giddens

Notary Public

My Commission Expires: 31 DEC 2003

COMMONWEALTH OF VIRGINIA)
COUNTY OF NORTHAMPTON) SS:

The foregoing instrument was acknowledged before me this 27th day of
June, 2003 by David F. Harris, who is Director of Land Programs of the Virginia
Coast Reserve Field Office of The Nature Conservancy, a District of Columbia nonprofit
corporation, on behalf of the corporation.

James L. Wilkins
Notary Public

My Commission Expires: 31 May 2007

Exhibit "A"

Mount Pleasant Farm Property Description

Parcel 1: All that certain tract or parcel of land, with the buildings and appurtenances thereunto belonging, situate near Kendall Grove in Eastville District, Northampton County, Virginia, and known as "Mount Pleasant Farm" and containing 415.53 acres, and bounded on the South by the lands now or formerly owned by Tillie James Turner, and by the lands now or formerly owned by Everett Watson; on the West by the public road leading to Kendall Grove and the lands now or formerly owned by the A. T. Leatherbury Estate; on the North by the lands now or formerly owned by the A. T. Leatherbury Estate and by the lands now or formerly owned by Hazel Carpenter Gladden; and on the East by Mount Pleasant Creek (also called Holts Creek), but the lands hereby conveyed are fully shown and described by a plat made by G. H. Badger, C.S., dated October, 1935, and titled "Property of Mrs. T. H. Nottingham. Surveyed at Request of T. H. Nottingham" with the exception of that property deeded to the Commonwealth of Virginia for highway purposes by deed dated June 26, 1939 and recorded in the Clerk's Office of Northampton County, Virginia, in Deed Book 100, at page 442. Said plat is recorded in Plat Book 4, at page 124, in the aforesaid Clerk's Office, to which reference is made.

Parcel 2: All that certain lot or parcel of land known as the Carpenter House and lot containing 3 acres, more or less, and bounded on the North by Parcel 1 described above; on the East and South by the lands now or formerly owned by Tillie James Turner; and on the West by the lands now or formerly owned by Tillie James Turner and by the lands now or formerly owned by Everett Watson.

These are the same parcels conveyed to The Nature Conservancy by deed dated March 31, 1992 by Earl Farrar Jordan, Trustee of the Earl Farrar Jordan Family Trust dated the 27th day of February, 1987, said deed being recorded in the Clerk's Office of Northampton Circuit Court in Deed Book 254 at Page 638, and also being shown as Block 0A, Lots 38, 38A, and 39 on the Assessor's map numbers 49 and 50 of the County of Northampton, Virginia.

INSTRUMENT #0300002012
RECORDED IN THE CLERK'S OFFICE OF
NORTHAMPTON COUNTY ON
JUNE 27, 2003 AT 12:17PM
KENNETH F. ARNOLD, CLERK

BY: Charmelle J. Smith (DC)

COMMONWEALTH OF VIRGINIA



OFFICIAL RECEIPT
NORTHAMPTON COUNTY CIRCUIT COURT
DEED RECEIPT

DATE: 04/27/08 TIME: 12:17:54 ACCOUNT: 131CLR0300042012 RECEIPT: 030000003970
CASHIER: AFS REG: NH10 TYPE: DE PAYMENT: FULL PAYMENT
INSTRUMENT : 0300002012 BOOK: PAGE: RECORDED: 04/27/08 AT 12:17
GRANTOR: ANTISPAWL LLC EX: N LOC: CO
GRANTEE: NATURE CONSERVANCY EX: N PCT: 100%
AND ADDRESS : NASSAWADOX VA
RECEIVED OF : TANNARD AND GORDON DATE OF DEED: 04/27/08
DEED : \$40.00
DESCRIPTION : CONSERVATION EASEMENT "MOUNT PLEASANT FARM" PAGES: 33
E: EASTVILLE DISTRICT NAME: /
CONSIDERATION: .00 ASSUME/VAL: .00 MAP:
CODE DESCRIPTION PAID CODE DESCRIPTION PAID
301 DEEDS 29.50 143 VSLP 1.50
106 TECHNOLOGY FUND FEE 3.00
TENDERED : 40.00
AMOUNT PAID: 33.00
CHANGE AMT : 7.00

CLERK OF COURT: KENNETH F. HANDL