

MODEL DECLARATION OF RESTRICTIONS

August, 2003

STATE OF NORTH CAROLINA

_____ COUNTY

CONSERVATION DECLARATION

This **DECLARATION of CONSERVATION COVENANTS, CONDITIONS, and RESTRICTIONS** ("_____") is made on this _____ day of _____, 200_, by [NAME AND ADDRESS OF DECLARANT] "Declarant").

RECITALS & CONSERVATION PURPOSES

A. Declarant is the sole owner in fee simple of the certain Conservation Property (Property) being approximately _____ acres, more particularly described in Exhibit A attached hereto and by this reference incorporated herein [*reference to a recorded map showing a survey of the preserved area may be required*]; and

B. The purpose of this Conservation Declaration is to maintain wetland and/or riparian resources and other natural values of the Property, and prevent the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its natural condition. The preservation of the Property in its natural condition is a condition of Department of the Army permit Action ID _____ issued by the Wilmington District Corps of Engineers (Corps), required to mitigate for unavoidable impacts to waters of the United States authorized by that permit, and this Conservation Declaration may therefore be enforced by the United States of America.

NOW, THEREFORE the Declarant hereby unconditionally and irrevocably declares that the Property shall be held and subject to the following restrictions, covenants and conditions as set out herein, to run with the subject real property and be binding on all parties that have or shall have any right, title, or interest in said property.

ARTICLE I. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Property inconsistent with the purposes of this Conservation Declaration is prohibited. The Property shall be maintained in its natural, scenic, and open condition and restricted from any development or use that would impair

or interfere with the conservation purposes of this Conservation Declaration set forth above.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted.

A. Disturbance of Natural Features. Any change disturbance, alteration or impairment of the natural features of the Property or any introduction of non-native plants and/or animal species is prohibited.

B. Construction. There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock or any other temporary or permanent structure or facility on or above the Property.

C. Industrial, Commercial and Residential Use. Industrial, residential and/or commercial activities, including any right of passage for such purposes are prohibited.

D. Agricultural, Grazing and Horticultural Use. Agricultural, grazing, animal husbandry, and horticultural use of the Property are prohibited.

E. Vegetation. There shall be no removal, burning, destruction, harming, cutting or mowing of trees, shrubs, or other vegetation on the Property.

F. Roads and Trails. There shall be no construction of roads, trails or walkways on the property.

G. Signage. No signs shall be permitted on or over the Property, except the posting of no trespassing signs, signs identifying the conservation values of the Property, signs giving directions or proscribing rules and regulations for the use of the Property and/or signs identifying the Grantor as owner of the property.

H. Dumping or Storage. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery or hazardous substances, or toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials on the Property is prohibited.

I. Excavation, Dredging or Mineral Use. There shall be no grading, filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner on the Property, except to restore natural topography or drainage patterns.

J. Water Quality and Drainage Pattern. There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing

or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.

K. Development Rights. No development rights that have been encumbered or extinguished by this Conservation Declaration shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

L. Vehicles. The operation of mechanized vehicles, including, but not limited to, motorcycles, dirt bikes, all-terrain vehicles, cars and trucks is prohibited.

M. Other Prohibitions. Any other use of, or activity on, the Property which is or may become inconsistent with the purposes of this grant, the preservation of the Property substantially in its natural condition, or the protection of its environmental systems, is prohibited.

ARTICLE II. ENFORCEMENT & REMEDIES

A. This Declaration is intended to ensure continued compliance with the mitigation condition of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the United States of America. This covenant is to run with the land and shall be binding on all parties and all persons claiming under the Declarant.

B. Corps, its employees and agents and its successors and assigns, have the right, with reasonable notice, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Declarant, Declarant's representatives, or assigns are complying with the terms, conditions and restrictions of this Conservation Declaration.

C. Nothing contained in this Conservation Declaration shall be construed to entitle Corps to bring any action against Declarant for any injury or change in the Conservation Property caused by third parties, resulting from causes beyond the Declarant's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Declarant under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to Property or harm to the Property resulting from such causes.

ARTICLE III. PUBLIC ACCESS

A. This Conservation Declaration does not convey to the public the right to enter the Property for any purpose whatsoever.

ARTICLE IV. DOCUMENTATION AND TITLE

A. Conservation Property Condition. The Declarant represents and acknowledges that the Property is currently undeveloped land, with no improvements other than any existing utility lines, Declarations and rights of way.

B. Title. The Declarant covenants and represents that the Declarant is the sole owner and is seized of the Property in fee simple and has good right to make the herein Declaration; that there is legal access to the Property, that the Property is free and clear of any and all encumbrances, except Declarations of record.

ARTICLE V. MISCELLANEOUS

A. Conservation Purpose.

(1) Declarant, for itself, its successors and assigns, agrees that this Conservation Property shall be held exclusively for conservation purposes.

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

C. Recording. Declarant shall record this instrument and any amendment hereto in timely fashion in the official records of _____ County, North Carolina, and may re-record it at any time as may be required to preserve its rights.

D. Environmental Condition of Conservation Property. The Declarant warrants and represents that to the best of its knowledge after appropriate inquiry and investigation: (a) the Property described herein is and at all times hereafter will continue to be in full compliance with all federal, state and local environmental laws and regulations, and (b) as of the date hereof there are no hazardous materials, substances, wastes, or environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith, and that there is no environmental condition existing on the Property that may prohibit or impede use of the Property for the purposes set forth in the Recitals.

IN WITNESS WHEREOF, Declarant has hereunto set his hand and seal, the day and year first above written.

[Signature of Declarant in proper form]