

**DEED OF CONSERVATION EASEMENT
(Conservation Subdivision District)**

STATE OF GEORGIA
COUNTY OF COBB

THIS DEED OF CONSERVATION EASEMENT (herein "Conservation Easement") is made this ___ day of _____, 20___, by and between _____ whose address is _____ (hereinafter "Grantor") and Cobb County, Georgia, a Political Subdivision of the State of Georgia, with an address of 100 Cherokee Street, Marietta, Georgia 30090 (hereinafter "Grantee").

RECITALS

A. Grantee is a governmental body empowered to hold an interest in real property under the laws of the State of Georgia.

B. Grantor owns in fee simple certain real property in Cobb County, Georgia, being _____ acres, more or less, and more particularly shown and described in Exhibit A attached hereto, hereinafter "Open Space Property".

C. Grantor received an Conservation Subdivision (CS) District designation on the Open Space Property and agreed to protect the open space from development in perpetuity by the mandatory covenants of the subdivision and the deeds that run with the land owned by the homeowner's association.

D. Grantor is willing to grant a perpetual Conservation Easement over the Open Space Property, thereby restricting and limiting the use of the Open Space Property (and contiguous water areas of the Open Space Property), on the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such Conservation Easement.

E. Grantor and Grantee recognize the conservation value of the Open Space Property in its present state and have a mutual desire to afford protection thereto. Both Grantor and Grantee recognize that a perpetual conservation easement is desirable for the following purpose(s): the protection of natural resources and preservation of open space, more specifically the limitation of land disturbance and decreasing the percentage of impervious surface within a planned residential community and conservation of land for recreation or aesthetic and environmental enrichment pursuant to the requirements of Chapter 134, Section 198.2 of the Official Code of Cobb County, Georgia.

NOW, THEREFORE, as an absolute gift of no monetary consideration but in consideration of the mutual covenants, terms, conditions and restrictions hereinafter set forth, Grantor hereby unconditionally and irrevocably grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity a Deed of Conservation Easement of the nature and character and to the extent hereinafter set forth, over the Open Space Property more particularly described in Exhibit A together with the right to preserve and protect the conservation values of the Open Space Property.

To achieve the conservation purposes, the following conditions and restrictions are set forth:

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an assignable easement in gross, runs with the land, and is enforceable by Grantee against Grantor, his personal representatives, heirs, successors and assigns, lessees, agents and licensees.

ARTICLE II. RIGHTS OF GRANTEE

To accomplish the purposes of this Easement the following rights are conveyed to Grantee by this easement:

- A. To preserve and protect the conservation values of the Open Space Property; and
- B. To enter upon the Open Space Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement.

ARTICLE III. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Open Space Property inconsistent with the purposes of this Conservation Easement, whether building, grading, excavating, trenching, damming, dumping, etc., is prohibited excepting only any necessary installation of materials and equipment or maintenance, repair, or replacement thereof with respect to the utility and sanitary sewer easements as shown on the attached Exhibit A. Should any such installation, maintenance, repair or replacement with respect to the utility and sanitary sewer easements occur, the Open Space Property shall thereafter be restored to its original state as much as is practicable. Development that would significantly impair or interfere with the conservation values of the Open Space Property is prohibited.

ARTICLE IV. RESERVED RIGHTS

Grantor reserves to himself, and to his personal representatives, heirs, successors, and assigns, all rights accruing from his ownership of the Open Space Property, including the right to engage in, or permit or invite others to engage in all uses of the Open Space Property that are not expressly prohibited herein and are not inconsistent with the purposes of this Easement.

ARTICLE V. GRANTEE'S REMEDIES

If Grantee determines that a violation of the terms of this Easement has occurred or is threatened, Grantee shall have the option of giving written notice to the Grantor of such and give a reasonable time for correction, if necessary. "Reasonable time" shall be in the sole discretion of Grantee. This option shall not preclude Grantee's right to seek judicial enforcement of the Easement, and such written notification and opportunity to correct shall not be a prerequisite to judicial enforcement. All costs incurred by Grantee in enforcing this Easement, including reasonable attorney's fees, shall be borne by Grantor, unless Grantor ultimately prevails when in such event each party shall bear its own costs.

ARTICLE VI. EXHIBITS, DOCUMENTATION AND TITLE

A. Legal Description. Exhibit A, Legal Description of the Open Space Property, to include the metes and bounds and Exhibit B, Pictorial Representation of the Open Space Property, are attached hereto and made a part hereof by reference.

B. Title. The Grantors covenant and represent that the Grantor is the sole owner and is seized of the Open Space Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Open Space Property is free and clear of any and all encumbrances except as noted in this Article; and Grantor covenants that the Grantee shall have

the use of and enjoyment of all of the benefits derived from and arising out of the aforesaid Conservation Easement.

ARTICLE VII. COSTS, LIABILITIES, TAXES, AND ENVIRONMENTAL COMPLIANCE

A. Costs, Legal Requirements, and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Open Space Property, including taxes and any costs of remediation.

B. Hold Harmless. Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Open Space Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation, or requirement, including, without limitation, CERCLA and state hazardous waste statutes, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Open Space Property; (3) the presence or release in, on, from, or about the Open Space Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and (4) the obligations, covenants, representations, and warranties of Grantor contained herein.

ARTICLE VIII. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the state of Georgia including the Georgia Uniform Conservation Easement Act.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of the Georgia Uniform Conservation Easement Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

E. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

F. Joint Obligation. The obligations imposed by this Easement upon Grantor and his heirs, successors and assigns, shall be joint and several.

G. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Open Space Property. The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and his personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

H. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Open Space Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

I. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

J. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties, each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

ARTICLE IX. DEDUCTIBILITY FOR TAX PURPOSES

Grantor acknowledges that no one on behalf of Grantee has made any representations, express or implied, as to the deductibility of this Conservation Easement under federal, state, or local law or as to any of the tax benefits or burdens which may be borne by the Grantor hereby. Grantor acknowledges that he has had the opportunity to seek legal counsel or the advice of a tax professional prior to the execution hereof and will hold harmless the Grantee for any tax ramifications incurred hereby.

TO HAVE AND TO HOLD unto Cobb County, Georgia, a political subdivision of the State of Georgia, its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, his personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Open Space Property.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals and caused these presents to be executed in their respective names by authority duly given, and their corporate seal affixed, the day and year above written.

TO BE EFFECTIVE upon the date of recordation in the official records of Cobb County, Georgia.

GRANTOR:
(Individual): _____
Signature

Print Name

Witness: _____

NOTARY PUBLIC

GRANTEE:
COBB COUNTY, GEORGIA

BY: _____
MICHAEL H. BOYCE, CHAIRMAN
COBB COUNTY BOARD OF COMMISSIONERS

Witness: _____

ATTEST: _____
COUNTY CLERK, COBB COUNTY, GEORGIA

NOTARY PUBLIC
(Notary Seal)

(SEAL)

APPROVED AS TO FORM: _____
SENIOR ASSOCIATE COUNTY ATTORNEY, COBB COUNTY, GEORGIA

APPROVED: _____
COMMUNITY DEVELOPMENT, COBB COUNTY, GEORGIA

GRANTOR:
(Corporate Name) _____

BY: _____

Print Name: _____

TITLE: _____

ATTEST: _____

TITLE: _____

Witness:

NOTARY PUBLIC

(Corporate Seal)

GRANTEE:
COBB COUNTY, GEORGIA

BY: _____
MICHAEL H. BOYCE, CHAIRMAN
COBB COUNTY BOARD OF COMMISSIONERS

Witness: _____

NOTARY PUBLIC

(Notary Seal)

ATTEST: _____
COUNTY CLERK, COBB COUNTY, GEORGIA

(SEAL)

APPROVED AS TO FORM: _____
SENIOR ASSOCIATE COUNTY ATTORNEY, COBB COUNTY, GEORGIA

APPROVED: _____
COMMUNITY DEVELOPMENT, COBB COUNTY, GEORGIA

GRANTOR:
(LLC Name) _____

BY: _____

Print name: _____

TITLE: _____

Witness:

NOTARY PUBLIC

(Notary Seal)

GRANTEE:
COBB COUNTY, GEORGIA

BY: _____
MICHAEL H. BOYCE, CHAIRMAN
COBB COUNTY BOARD OF COMMISSIONERS

Witness: _____

ATTEST: _____
COUNTY CLERK, COBB COUNTY, GEORGIA

(SEAL)

NOTARY PUBLIC
(Notary Seal)

APPROVED AS TO FORM: _____
SENIOR ASSOCIATE COUNTY ATTORNEY, COBB COUNTY, GEORGIA

APPROVED: _____
COMMUNITY DEVELOPMENT, COBB COUNTY, GEORGIA

Conservation Documents Signature Page Reference

If the grantor is a corporation (Inc., or Corporation) it needs to be signed by:

- (a) by the president or vice-president and attested by the secretary or assistant secretary with the corporate seal, signature of witness and notary public; or
- (b) by any officer and attested by the secretary or assistant secretary along with a witness and notary public; or
- (c) any other method if authorized by a corporate resolution, which needs to be provided, signature of a witness and notary public

If the grantor is a LLC (limited liability Company) it needs to be signed by:

- (a) a member or manager, signature of a witness and notary public;
- (b) The grantor will need to provide documentation that the LLC signatory has the authority of sign and bind the LLC if information unless staff is able to verify such authority through the State of Georgia.

If the grantor is an individual, it needs to be signed by:

- (a) the individual needs to sign;
- (b) signature of a witness and notary public.