

Proceeding 10088  
DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION  
Champion/Tooley Pond Tract  
St. Lawrence 239B  
Champion/Santa Clara Tract  
St. Lawrence 246B

RECEIVED AT  
ST. LAWRENCE COUNTY  
CLERK'S OFFICE  
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**CONSERVATION EASEMENT**

This Indenture, made this 30th day of June 1999, between **THE CONSERVATION FUND** having its principal office at 1800 North Kent Street, Suite 1120, Arlington, Virginia, 22209-2156, Grantor and **PEOPLE OF THE STATE OF NEW YORK**, acting by and through the Commissioner of Environmental Conservation of the State of New York, who has an office at 50 Wolf Road, Albany, New York 12233-0001, Grantee.

WHEREAS, the Grantor is the owner of certain real property hereinafter more fully described in Addendum A attached hereto, and hereinafter referred to as the Protected Property; and

WHEREAS, the Protected Property is shown on the following maps intended to be filed in the Office of the Clerk of the County listed thereon, prior to the recording of this Conservation Easement, hereinafter referred to as "Maps of the Protected Property":

1. "Map showing Champion International Corporation Lands known as Tooley Pond Tract designated as Project: St. Lawrence 239", dated June 25, 1999, by Robin A. Disbro, Assistant Land Surveyor II, filed in the Department of Environmental Conservation in Albany, New York, as Map No. 11,536, filed in the St. Lawrence County Clerk's Office on June 28, 1999 as Instrument No. 1999-12815, in Envelope 385B;

2. "Map showing former Champion International Corporation Lands being a portion of lands known as Santa Clara Tract designated as Project: St. Lawrence 246", dated \_\_\_\_\_, 1999, by Mark T. Effley, Assistant Land Surveyor II, filed in the Department of Environmental Conservation in Albany, New York, as Map No. 11,537, filed in the St. Lawrence County Clerk's Office on June 28, 1999: Sheet 1, as Instrument No. 1999-12816, in Envelope 386A, Sheet 2, as Instrument No. 1999-12817, in Envelope 386A; and

WHEREAS, the Legislature of the State of New York has declared the public policy of the State to be conservation, preservation and protection of its environmental assets and natural and man-made resources, and in furtherance thereof, has enacted Article 49, Title 3 of the Environmental Conservation Law to provide for and encourage the limitation and restriction of development, and use of real property through conservation easements; and

WHEREAS, the Protected Property in its present natural condition has substantial and significant natural resources value by reason of the fact that it has historically been managed for silvicultural purposes and for the production of timber, and that it has not been subject to any extensive development; and

WHEREAS, the Department of Environmental Conservation desires to implement the Environmental Conservation Law in a way that encourages various forms of public recreation upon the subject lands, protects the subject lands from excessive subdivision and development, and ensures that the subject lands continue to contribute to the forest products industry; and

WHEREAS, the Adirondack State Land Master Plan provides, in pertinent part, that "due to the importance of the forest products industry to the economy of the Adirondack

Region, bulk acreage purchases in fee should not normally be made where highly productive forest land is involved . . . however, conservation easements permitting the continuation of sound forest and other land uses compatible with the open space character of the Park should be acquired wherever possible to protect and buffer state lands”; and

WHEREAS, in view of the foregoing and pursuant to the provisions of the aforementioned Article 49 of the Environmental Conservation Law, the Grantee has determined it to be desirable and beneficial and has requested the Grantor, for itself and its successors and assigns, to grant a Conservation Easement to the Grantee in order to limit the future development of the Protected Property while encouraging compatible uses consistent with the statement of purposes of the grant below;

#### PURPOSE OF THE GRANT

Grantor its agents, assigns and successors-in-interest and Grantee acknowledge the Purposes of this Easement are as follows (hereinafter “Purposes of this Grant”):

- 1). The principle objective of this Easement is to perpetuate, as a sustainable working forest, the productive forest resources on the Protected Property ; to encourage the long-term, professional management of those forest resources; and to facilitate the biologically and economically sustainable production of forest resources while minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other conservation values.
- 2). The second objective of the Easement is to conserve the wildlife habitat and other natural resource features associated with the Protected Property, especially the diversity of forest types and conditions.
- 3). The third objective of the Easement is to provide opportunities for Public Recreation in a manner that is consistent with the forest management and resource conservation purposes outlined above.

WHEREAS, by this deed and deeds and conservation easements of even date hereof, Grantor is conveying to Grantee fee title and conservation easements over lands in Lewis, Herkimer, St. Lawrence and Franklin Counties, for a total consideration of TWENTY-FOUR MILLION NINE HUNDRED NINETY-SEVEN THOUSAND AND NO/00 DOLLARS (\$24,997,000.00);

NOW, THEREFOR, Grantor, for said total consideration of \$24,997,000.00, lawful money of the United States, paid by the Grantee, receipt of which is hereby acknowledged, grants, conveys and releases to the Grantee and its successors forever for the benefit of the Grantee, an easement in perpetuity pursuant to Article 49, Title 3 of the Environmental Conservation Law in, on, over, under and upon the Protected Property consisting of entry, inspection and limited public recreational access and use, as hereinafter more fully described together with the DECLARATION OF RESTRICTIONS as hereinafter delineated and enumerated in the Section of that name, which restrictions the Grantor hereby imposes upon the Protected Property in perpetuity.

The Grantor, however, reserves to itself and its successors and assigns the rights hereinafter more fully set forth in the Section captioned RESERVED RIGHTS along with all rights as fee owner including the right to use the property for all purposes not inconsistent with this Easement.

AFFIRMATIVE RIGHTS

Those rights agreed to by the parties herein as running with the Protected Property are more fully described as follows:

- 1). The Grantor grants to the Grantee, its successors and assigns, the right to view the Protected Property in its current state.

2). The Grantor grants to the Grantee, its successors and assigns, rights of access to the Protected Property including the right of access for administrative purposes and the right of public access for recreational purposes only, subject to the TERMS AND CONDITIONS and RESERVED RIGHTS set forth herein.

3). The Grantor grants to the Grantee, its successors and assigns, the right and responsibility to manage the public on the Protected Property in accordance with the purposes of this Easement, the Land Management Plan, as defined in the TERMS AND CONDITIONS of this Easement, and operable laws and regulations administered by the State of New York.

4). The Grantor grants to the Grantee, its successors and assigns, a right of public access for recreational purposes, to include the following:

- (a). Public access to and over the Protected Property by foot, bicycle or other non-motorized means including hiking, snowshoes, cross-country skiing, mechanized aids for persons with disabilities, and/or horseback. The use of horses or other similar animals for riding or transportation of supplies is permitted.
- (b). Public access to and over the Protected Property by canoe and other waterborne travel by the public on any streams or bodies of water crossing or situated on the Protected Property.
- (c). Public Access over specifically designated Motorized Access Corridors by motor vehicle or other mechanized means. As used herein, the term "motorized access" includes access by motor vehicle, snowmobile, all terrain vehicle, or other mechanized recreational vehicle. Only those Motorized Access Corridors which have been designated in the Land Management Plan and which have been specifically marked for the type of motorized vehicular

travel permitted shall be available for public recreational access. The Grantee is responsible for all necessary signs indicating the specific corridors which may be opened for public motorized access and the type of motorized access (e.g. motor vehicle, snowmobile, all terrain vehicle) permitted upon said specific corridors. Notwithstanding the foregoing, prior to the adoption of the Land Management Plan, the public may use Rifle Season Primary Access Corridors, as defined under TERMS AND CONDITIONS, for access by motor vehicle to the adjoining forest preserve lands owned by Grantee. The Rifle Season Primary Access Corridors are delineated on the Maps of the Protected Property.

The motorized public access provided for above is subject to the RESERVED RIGHTS of Grantor, including the right to close Motorized Access Corridors to public use in the manner and for the reasons specifically provided for in the RESERVED RIGHTS and TERMS AND CONDITIONS Sections of this Easement.

5). Grantee, its successors and assigns, shall have the right to construct and maintain new trails for foot, bicycle, or horseback travel by the public, to construct and maintain new parking lots, and to construct and maintain new Motorized Access Corridors in addition to those which may already exist on the Protected Property, so as long as such trails, parking lots, or roads do not interfere with the Grantor's Reserved Right of Forest Management, and as are provided for in Grantee's Land Management Plan or have been otherwise approved by Grantor, approval not unreasonably withheld. Any timber removed by the construction of these roads, trails or parking lots shall belong to the Grantor. Grantor shall be given reasonable time to remove such timber.

6). The Grantee, its successors and assigns, shall have the right to utilize on-site gravel in furtherance of Grantee's AFFIRMATIVE RIGHTS under this Easement, subject to the approval of the Grantor with regard to the location from which said gravel may be removed as described in the RESERVED RIGHTS Section of this Easement. The siting of said gravel removal area shall comply with all applicable laws and regulations. Grantor's approval of the siting of the gravel removal area shall not be unreasonably withheld.

7). The Grantee, its successors and assigns, shall have the right to permit camping by the public in the same manner as currently regulated (or to be regulated) on State lands, provided, however, that designated camping sites shall be delineated in the Land Management Plan.

8). The Grantee, its successors and assigns, shall have the right to permit the public to build fires for cooking, warmth or smudge only with firewood gathered from on-site dead and downed trees. Open fires will be regulated in the same manner as on Forest Preserve.

9). The Grantee, its successors and assigns, shall have the right to permit the public to hunt, fish and trap in accordance with established New York State seasons, applicable rules and regulations and the RESERVED RIGHTS section of this Easement.

10). The Grantee, its successors and assigns, shall have the right and responsibility to manage the fish and wildlife resources on the Protected Property in accordance with regulations or other generally accepted standards for the long term use and benefit of the public within this Easement's "Purposes of this Grant" Section.

11). Grantee, its successors and assigns, shall have the right and responsibility to take any emergency action necessary in response to natural disaster, environmental

hazard or threats to human safety to preserve the Protected Property and protect the public in response to natural disaster, environmental hazard or threats to human safety. The Grantor shall be immediately notified and consulted with regards to any such emergency action.

12). Grantee, its successors and assigns, shall have the right to enter the Protected Property at all reasonable times and with prior notice for the purpose of:

- (a). Inspecting the Protected Property to determine if the Grantor is complying with the covenants and purposes of this Conservation Easement.
- (b). Enforcing the terms of the Conservation Easement.
- (c). Taking any and all legal actions with respect to the Protected Property as may be necessary or appropriate to remedy or abate violations hereof.

13). Grantee, its successors and assigns, shall have the right with the consent of Grantor, to construct, use, repair, maintain, improve, demolish, replace, expand or extend lean-tos, cabins or other structures designed to facilitate public recreation and management of the Protected Property subject to applicable laws and regulations and the provisions of the Land Management Plan. Should said structures no longer serve their intended purpose, Grantee shall remove such structures within two (2) years.

14). The public access granted herein shall be limited by Grantor's Reserved Rights to, among other things, conduct forest management activities (including the designation of closure zones); access and maintain principal buildings, structures and

uses set forth in APA Permit No. 98-313 per subdivided parcel and the forestry use structures provided for in the RESERVED RIGHTS Section of this Easement; exclude the public from one-acre tracts as provided for in paragraph nine (9) of the RESERVED RIGHTS Section of this Easement; and to exercise exclusive hunting rights on leased lands as provided for in paragraph seven (7) of the RESERVED RIGHTS Section of this Easement.

#### RESERVED RIGHTS

Notwithstanding the foregoing, the Grantor reserves to itself, its successors, lessees, invitees, contractors, agents and assigns the following rights with regard to the Protected Property:

1). The right to conduct commercial forestry activities related to the management of forest resources and harvesting of timber and other forest products in a manner consistent with the RESERVED RIGHTS and TERMS AND CONDITIONS of this Easement. Forest management and harvesting activities, as defined herein, shall be performed, to the extent reasonably practicable, to meet the following objectives and conditions:

(a) Objectives:

- (i) To perpetuate as a sustainable working forest the productive forest resources on the Protected Property.
- (ii) To encourage the long-term, professional management of the forest resources.

- (iii) To facilitate the biologically and economically sustainable production of forest resources while minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other conservation values.

(b). Conditions:

- (iv) To conduct forest management and harvest activities on the protected property in accordance with sound and generally accepted silvicultural standards at the time of harvest.
- (v) To follow a written Forest Management Plan the goals of which will be consistent with the objectives above.
- (vi) To implement the management plan under the supervision of a professional forester possessing a bachelor of science degree in forestry from an education institute with a forestry curriculum accredited by the Society of American Foresters.

2). The exclusive right to construct, install or place new forestry use structures as defined by the Adirondack Park Agency and new accessory structures customarily incidental and subordinate to forestry use activities, provided any such structures are specified in the Forest Management Plan or otherwise agreed upon by Grantor and Grantee, said consent not to be unreasonably withheld. Any such structures are

subject to review and approval pursuant to all laws and regulations applicable at that time by those regulatory agencies vested with such jurisdictional authority.

3). Grantor, its successors and assigns, reserves the right to place one forest products concentration yard, encompassing not more than ten (10) acres in size on each of the three large tracts [Tooley Pond, Santa Clara, Croghan] making up the Protected Property as identified on Maps of the Protected Property and as set forth in APA Permit No. 98-313. Grantor further reserves the right to construct one (1) commercial saw mill on the Protected Property. The location of said commercial saw mill shall be identified on the Maps of the Protected Property and as set forth in APA Permit No. 98-313. The area disturbed by said sawmill shall not exceed ten (10) acres in size. Nothing contained herein should be construed to remove the necessity of obtaining any permits or approvals otherwise required by law.

4). Grantor, its successors and assigns, reserves the right to subdivide the Protected Property into a maximum of thirteen individual parcels, the approximate boundaries of which are outlined on the Maps of the Protected Property and as set forth in APA Permit No. 98-313. Each of the thirteen parcels will have set aside a five (5) acre development site to be excluded from the public recreation rights provided for herein. Grantor reserves the right to post such areas as restricted from public use. The approximate location of these five (5) acre development sites and the principal buildings, structures and uses are set forth on the Maps of the Protected Property and identified in APA Permit No. 98-313. The five (5) acre development sites shall not be configured in a manner which restricts access on roads or trails which would otherwise be available to Grantee. Each five (5) acre development site will be

allowed two (2) principal buildings and accessory structures determined necessary by Grantor to compliment the land use. One of the principal buildings on each of the five acre development sites shall be either a single family dwelling, a private hunting and fishing club structure, or a private research, educational and/or administrative building associated with forestry and/or recreational use which also contains permanent and/or transient living quarters. A second principal building on each development site shall be limited to either a caretaker's residence or a guest cottage. In no event shall the two principal buildings on each site exceed 6,000 square feet in the aggregate. Except for administrative purposes associated with forestry, only non-commercial uses will be associated with each development site. Grantor further reserves the right to construct a one-story boathouse on Lake Ozonia, parcel 53, Town of Santa Clara subject to APA Permit No. 98-313. It is acknowledged that APA Permit No. 98-313 governs the final location of any new structure. The five (5) acre limitation to each development area shall not apply to water and sewer facilities in the event the Adirondack Park Agency determines that additional contiguous space is needed for those services to accommodate the proposed use. No such limited use of additional area beyond the five (5) acre development site will impede the public recreational opportunities provided pursuant to this Conservation Easement. Any structure on the Protected Property determined to be of historic significance pursuant to Section 14.09 of the New York State Historic Preservation Act of 1980 shall not be considered as one of the principal buildings, structures or uses set forth in APA Permit No. 98-313, unless Grantor elects to utilize such historic structure as one of its principal buildings upon a particular subdivided parcel. Any historic structure which Grantor is required to

preserve, but which is not used as an allowed principal building, may not be occupied for any purpose.

5) The right to lease the protected lands to existing or successor Hunting and Fishing Clubs for a period of fifteen years from closing and the right to let, occupy, use, repair maintain, demolish, vacate, but not expand or extend, hunting and fishing camps for a period of fifteen years from closing. "Hunting and Fishing Camps" shall be defined as existing structures, including associated outbuildings, located on the Protected Property which are owned by individuals or organizations for hunting, fishing and trapping purposes pursuant to leases granted by Champion International Corporation. Within three (3) years after the termination of this reservation, it shall be the responsibility of the Grantor to acquire the legal authority and implement removal or demolition of all such Hunting and Fishing Camps, buildings, outbuildings, lessee postings and refuse which exist on the property at the time by burning and burying the rubble subject to existing laws and regulations.

6). Grantor reserves the right to allow, at it's sole discretion, Hunting and Fishing Camps currently located on the Forest Preserve lands to be relocated to the Protected Property, where existing leases encumber lands that are both partly on the Protected Property and partly on adjoining Forest Preserve lands. The siting of the new location for such camps shall be subject to the DECLARATION OF RESTRICTIONS herein and consent of the Grantee, which consent shall not be unreasonably withheld. Any such relocated Hunting and Fishing Camp must be the same size as the original, and constructed and located in a manner which is in full compliance with federal, state and local laws and regulations. All other provisions

of this Conservation Easement shall govern the use and occupancy of the relocated Hunting and Fishing Camps.

7). The Grantor, its successors, assigns, lessees and invitees reserves the exclusive right to hunt during the period of September 1 through December 31 of each year for a period of 15 years from closing, subject to applicable laws and regulations. The reserved hunting rights permit the exclusive right to post all hunting boundaries consistent with the hunting rights reserved herein and the applicable posting laws. Grantor or its agents can assign any such posting rights to its lessees.

During the period of September 1 through December 31, 1999 any and all public use of the Protected Property shall be prohibited with the exception of roads or trails designated as Rifle Season Public Access Corridors on Maps of the Protected Property. During the rifle season for white tail deer within the remaining period of 15 years from closing, any and all public use of the Protected Property shall be prohibited with the exception of roads or trails designated as Rifle Season Public Access Corridors in Maps of the Protected Property or in the Land Management Plan. Grantee shall erect signs, gates, fences or barriers as may be necessary to carry out limitations on public use as set forth in this paragraph. Grantee shall enforce said restrictions on public use through the use of signage and gates. It is mutually understood that the "rifle season for white tail deer" shall not be interpreted to include muzzle loading rifle season.

8). Where practicable, Grantor agrees to first offer any vacated existing leases to those lessees previously occupying lands entirely acquired by the State in fee simple.

9). Grantor reserves the right to exclude from the public recreation rights provided for herein, including the right to post such areas as restricted from public use, a one (1) acre area surrounding each of the leased Hunting and Fishing Camps. The one (1) acre area surrounding each leased Hunting and Fishing Camp shall not be configured in a manner which restricts access on roads or trails which would otherwise be available to Grantee. Furthermore, Grantor reserves the right for its lessees to access leased lands and camps on the Protected Property across existing roads closed to the public where the primary and secondary public corridors are inadequate. The one (1) acre area around each leased Hunting and Fishing Camp authorized herein shall be excluded from public use throughout the year during the fifteen (15) year period during which such camps are authorized, any seasonal limitation on hunting rights notwithstanding. In cases where multiple Hunting and Fishing Camps are located in close proximity to each other, a common area equal to one acre per Hunting and Fishing Camp may be excluded from public use under the terms of this paragraph.

10). Grantor reserves the right to use, repair, maintain, improve, correct, upgrade or otherwise relocate any and all existing trails, paths and roadways on the Protected Property and to construct such new roads and trails as are necessary for the implementation of the Grantor's reserved right to harvest forest products, or to gain access to other lands of the Grantor subject to the TERMS AND CONDITIONS of this Easement.

11). Grantor reserves the right to utilize on-site gravel under this Easement. Grantor further retains the right to designate the location from which Grantee may

remove gravel, provided that such location is within a reasonable distance of Grantee's proposed use of said gravel. All such gravel or borrow pits located on the Protected Property shall be maintained in such a way as to minimize the adverse effects of open pit mining and shall be operated in accordance with all applicable laws and regulations. No gravel pits may be located within Forest Management Buffer Areas as described in this Easement or within 100 feet of any State or local highway.

12). Grantor reserves the right to clear for reforestation; to plant trees in non-forested areas; to reforest, plant, grow and harvest forest products and other vegetation; to clear or restore forest cover damaged or destroyed by fire, water or natural disaster; to selectively prune or trim trees; to harvest, selectively prune or trim foliage and other vegetation; to harvest forest products with domestic animals or mechanical equipment; and maintain existing field and meadows. Harvesting shall include, but not be limited to, the removal of forest products such as trees, logs, poles, posts, pulpwood, firewood, chips, seeds, pinestraw, stumps, seed cones, shrubs, lesser vegetation, and all sugar maple products. The harvesting and removal of any and all forest products as herein described shall be permissible by any and all current and future harvesting and removal techniques allowable under the law. All harvesting and related activities shall be conducted in accordance with any applicable laws, rules and regulations of any governmental agency having jurisdiction. In conjunction with such forestry use, the Grantor reserves the right to apply, consistent with applicable statutes and regulations, any herbicides, pesticides, fungicides, rodenticides and insecticides as may be appropriate. The Grantor shall

have the right to practice all accepted forest management practices allowable under the law to the extent permitted under the terms of this Easement.

13). Grantor reserves the right to trim, cut, remove, use for firewood or otherwise dispose of any trees or vegetation which are diseased, rotten, damaged or fallen, or that are safety or health hazards; to trim, cut, remove or otherwise dispose of any trees or vegetation as is necessary to maintain existing fire lanes, footpaths, roadways and utility rights-of-ways.

14). Grantor reserves the right to take any action necessary to preserve water levels, to preserve the natural purity of the water, or to prevent the erosion of any slope or shoreline on the Protected Property, provided the written consent of the Grantee is first obtained, and any appropriate regulatory approvals are obtained. Consent of Grantee is not necessary when actions are taken pursuant to silvicultural activities permitted under this Easement or in cases of emergencies. Grantor shall immediately notify Grantee of any actions taken in an emergency situation.

15). Grantor reserves the right to use, maintain and repair existing trails and roads and to build new trails and roads for its use in the furtherance of Grantor's Reserved Rights. New roads and trails may be made available to the public through revision of the Land Management Plan; specific uses of these new roads and trails by the public shall also be addressed in the Land Management Plan.

16). Grantor reserves the right to build, maintain and repair roads which create access over, through, and across the Protected Property to other properties now or hereafter owned by Grantor, together with the right of Grantor to grant to its successors and assigns the rights of ingress and egress, for any lawful use, over, on

and through such roads for access to adjoining properties. Provided, however, that any roads which provide access to adjacent lands now owned, or hereafter acquired by the Grantor, shall be routed across the Protected Property by a reasonably direct route that is practical and feasible so as to lessen the impact on natural resources or the recreational rights available on the Protected Property. Said rights shall also include the right of Grantor to work with adjoining landowners in granting reciprocal rights of ingress and egress for the exclusive purpose of forest management activities and the hauling of forest products.

17). Grantor reserves the right to install gates or other barriers and otherwise prohibit motorized public access to any roads over which the public has not been granted a right of use pursuant to this Easement. In the event that the Grantor installs any gates on the property where permitted, the Grantee shall be given the necessary keys to open all gates for administrative use by the Grantee, its officers, employees and agents.

18). Grantor reserves the right to take emergency action to preserve and protect Grantor's Reserved Rights in response to natural disaster, environmental hazards, or threats to human safety.

19). Grantor reserves the right to use all recreational rights under the same guidelines and restrictions as the public.

20). Grantor reserves the right to give, sell, assign, lease, or otherwise transfer the Protected Property by operation of law, by deed, or by indenture, subject and subordinate to this Easement. Grantor also reserves the right to give, sell, assign,

lease, or otherwise transfer the Grantor's Reserved Rights by operation of law, by deed, or by indenture, subject and subordinate to this Easement.

21). Grantor reserves all rights as fee owner to the Protected Property, including the right to use the Property for all purposes not inconsistent with, or limited by, this grant of Easement.

22). Grantor reserves the right to prohibit or otherwise restrict, public access to limited areas of the Protected Property that are being actively logged by designating the active logging areas a "Logging Operation Closure Zone." The restriction upon public access to such Logging Operation Closure Zone shall be limited to those areas being actively logged and shall be effective only for those periods during which the area is being actively logged and, unless mutually agreed upon by the parties, any such closure shall not exceed twenty four (24) months in duration. No closure or other access restriction implemented pursuant to this provision shall apply to Rifle Season Primary Access Corridors or Primary Access Corridors as defined in the TERMS AND CONDITIONS of this Easement. The closure rights set forth herein with regard to the public and its exercise of recreational use are intended to apply both to motorized and non-motorized access, subject to the exemption from closure of any Primary Access Corridor. Grantor shall inform Grantee of proposed Logging Operation Closure Zones in writing no less than 30 days prior to closure and Grantor shall use all best efforts to predict future Logging Operation Closure Zones in the Forest Management Plan or Annual Work Plan. No more than 10% of the Protected Property can be closed at any one time under this closure zone provision. Grantor

shall be responsible for the posting and marking of areas subject to closure under this provision.

#### TERMS AND CONDITIONS

The provisions upon which this Easement is given and accepted are more fully defined as follows:

1). In order to provide for the safe and reasonable cooperative use of the Protected Property, the parties agree to:

(a) Grantee will prepare a Land Management Plan, as amended or revised from time to time, which will be subject to review and approval by Grantor with respect to the lands encumbered by this Easement, which approval shall not be unreasonably withheld. Said Land Management Plan shall incorporate the AFFIRMATIVE RIGHTS set forth in this Easement and only those rights and privileges herein granted to the public unless others are agreed upon by the Grantee and Grantor.

(b) Grantor will prepare a Forest Management Plan which will be subject to review and approval by Grantee, which approval shall not be unreasonably withheld. Said Forest Management Plan shall address, at a minimum, those elements set forth in paragraphs 2, 3 and 4 below (see also Addendum B). Prior to completion of the plan, Grantor may prepare an Interim Forest Management Plan for salvage work which will also require approval of Grantee, which approval will not be unreasonably withheld.

2). Grantor and Grantee acknowledge the vital importance of the forest resources on the Protected Property. Grantor agrees to implement its forest management activities, to the extent reasonably practicable, to meet the following objectives and conditions:

(a) Objectives:

- (i) To perpetuate as a sustainable working forest the productive forest resources on the Protected Property.
- (ii) To encourage the long-term, professional management of the forest resources.
- (iii) To facilitate the biologically and economically sustainable production of forest resources while minimizing the impacts on water quality, scenic benefits, wildlife habitat, recreational and other conservation values.

(b) Conditions:

- (iv) To conduct forest management and harvest activities on the protected property in accordance with sound and generally accepted silvicultural standards at the time of harvest.
- (v) To follow a written Forest Management Plan the goals of which will be consistent with the objectives above.
- (vi) To implement the management plan under the supervision of a professional forester possessing a bachelor of science degree.

in forestry from an education institute with a forestry curriculum accredited by the Society of American Foresters.

The Forest Management Plan shall be consistent with the Objectives and Conditions above and shall guide the silvicultural activities on the Protected Property. The Forest Management Plan shall include, as a minimum:

- (a) Grantor's forest management objectives;
- (b) Forest stand descriptions and locations at a level of detail feasible for operations pursuant to this Easement, including species composition, stocking levels, site classes and volumes and, where available soil types;
- (c) Forest-type map showing topographic and hydrographic features, forest stands, roads, planned roads and other improvements, scale, and north arrow;
- (d) Strategies to protect threatened or endangered species, unique habitats or cultural and archaeological sites, and forested wetland and streamside buffers that are identified in the Report of Physical Inspection of the Protected Property required under the TERMS AND CONDITIONS Section of this Easement and subsequent biological and cultural inventories conducted by the Grantee;

- (e) Description of management actions and silvicultural practices to be employed to accomplish the stated management objectives.

3). The Forest Management Plan required under the TERMS AND CONDITIONS Section of this Easement shall be written not to exceed a 15 year period with an update required at no later than ten year intervals. The plan will be provided to the Grantee for review as to compliance with this Easement. On an annual basis, the Grantor and Grantee will meet to review proposed Annual Work Plans and review activities completed in the previous year. Forest management activities shall be guided by the current generally accepted silvicultural standards and guidelines as such standards evolve over time. Some examples of current silvicultural guidelines are: "a Silvicultural Guide for Spruce-Fir in the Northeast" by Frank and Bjorkbom; "Silvicultural Guide for Northern Hardwood Types in the Northeast" by Leak, Solomon and Debal; "A Silvicultural Guide for White Pine in the Northeast" by Lancaster and Leak; "Unevenaged Management of Northern Hardwoods in New England" by Leak and Filip. This is not intended to be an exhaustive list. Other publications may be utilized as they become available. The "Summary of Silvicultural Options by Type Class" (Addendum C) describes acceptable silvicultural practices so long as they are employed consistently with the silvicultural guidelines noted above.

4). The Grantor recognizes the importance of following sound and generally accepted silvicultural standards and restrictions to the extent reasonably practicable including the following:

- (a) Timber Harvesting: The harvesting and removal of forest products as herein described shall be conducted under the supervision of a

professional forester possessing a bachelor of science degree in forestry from an education institute with a forestry curriculum accredited by the Society of American Foresters, and be guided by New York State Department of Environmental Conservation Timber Harvesting Guidelines for New York, LF-P815, or its successor. All harvesting and related activities shall be conducted in accordance with all applicable local, state and federal laws, rules and regulations. Prior to any harvest, an analysis of the area to be harvested shall be completed and a silvicultural prescription and cutting plan shall be developed.

- (b) Forest Management Buffer Areas: ~~Lakes, Ponds, Bogs Buffer~~ -No forest management activities may take place within this Buffer Area, which is defined as all land 100 feet from the high water mark of all lakes, ponds and bogs, except under the following conditions:
- (i) proposed activities are intended to enhance specific ecological and silvicultural goals related to native species (e.g., enhance spruce grouse habitat); and
  - (ii) proposed activities are upon mutual agreement of both parties as provided for in the management plan development process; and
  - (iii) such activities are planned and supervised by a professional forester, as defined previously in this document, in consultation with a habitat biologist; and

- (iv) such activities are guided by the current New York State Department of Environmental Conservation Timber Harvesting Guidelines for New York, LF-P815, or its successor, and other applicable standards as set forth herein.

Streams, Rivers, Wetlands Buffer -- Forest Management along streams, rivers or in forested wetlands must meet or exceed currently accepted silvicultural best management practices.

Visual and Auditory Buffer -- Visual and auditory impacts of tree harvesting shall be minimized within one-half mile of wild, scenic or recreational rivers. No timber harvesting or road building activities shall take place within one-half mile of the banks of Oswegatchie, Grasse, St. Regis and Deer Rivers from May 1 to October 15 of each year except as provided for and justified in the Forest Management Plan. The purpose of this provision is to minimize visual and auditory impacts upon recreational users of river corridors and to minimize adverse environmental impacts upon such corridors.

- (c) **Forested Wetlands:** Forest Management activities in the boreal wetland areas will be consistent with generally accepted silvicultural guidelines such as "A Silvicultural Guide for Spruce-Fir in the Northeast" by Robert Frank and John Bjorkbom.
- (d) **Regeneration Standards:** Stand density shall not be reduced below the C-line of the appropriate silvicultural guides for the

forest type being treated unless one of the following conditions are met:

- (i) Sufficient regeneration is present. Regeneration shall be deemed sufficient if Grantee and Grantor agree that field sampling and observation show sufficient regeneration is present as referenced in the appropriate current silvicultural guide.
- (ii) In those stands where insufficient regeneration is present, but the species and site conditions, by mutual agreement of the Grantee and Grantor, warrant a regeneration harvest to promote the establishment and growth of desirable regeneration. In both instances, the Forest Management Plan and Annual Work Plan will outline those types and subsequent stands to be treated with harvests that create residual stand stocking under C-line stocking.

(e) Harvesting Restrictions: The following restrictions are designed to create a sustained yield of forest products and prevent liquidation harvest practices --

- (i) No clear-cut, as defined by the Adirondack Park Agency, will exceed 25 acres in area (size).

- (ii) Any clear cut must be in compliance with Adirondack Park Agency laws, rules and regulations, all other applicable laws, and regulations, and consistent with generally accepted silvicultural guidelines.
- (iii) The grantor agrees to restrict harvest levels to a volume that does not exceed 70% of the periodic annual growth<sup>1</sup> on growing stock trees in accordance with the United States Department of Agriculture Forest Service Forest Inventory Analysis (1995) (USDA FS FIA). This restriction shall remain in force for 20 years from the date of this grant.
- (iv) The Grantor and Grantee shall review harvest levels after 10 years to determine if the level should be adjusted to reflect forest stocking levels at that time.
- (v) Harvest levels after the initial 20 year period shall be restricted to periodic annual growth on growing stock trees.

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<sup>1</sup>Periodic Annual Growth for the purposes of this Easement shall be defined as: The total volume of wood produced by all growing stock trees in the forest net the losses attributable to mortality. The percentage of periodic growth referred to in paragraph (e) (iii) above shall be interpreted as a percentage of the periodic growth of all properties subject to this Easement that are under common ownership at the time of harvest. Periodic annual growth shall be calculated as an average for a ten year period. Allowable cut would be monitored and tracked over ten year intervals to reflect the ability of managers to address market, weather, and other management considerations on an annual basis. Managers would either increase or decrease the harvest on an annual basis to fall within the allowable cut parameters for a ten year period. Annual harvest targets and growth information would be presented in the Annual Work Plan. Growing stock is defined by the USDA Forest Service Forest Inventory and Analysis as all trees of commercial species found in the seedling, sapling, poletimber, and sawtimber size classes.

(f) Roads and Trails: No roads, trails or timber landing yards may be located within one hundred (100) feet of any State or local highway, except at existing access points where existing landings meet or exceed Best Management Practices and are acceptable to Grantee, or designated points mutually agreed upon which will provide required access to public highways. Grantor may maintain, repair and construct trails and roads on the Protected Property necessary for uses permitted herein, provided that any landing yard may not be located within the Forest Management Buffer Areas. Any grading or change in topography necessary for roads and trails shall blend into the natural topography of the Protected Property and be limited to the minimum necessary for the uses permitted under this Easement. Mining activities are allowed for non-commercial sand and gravel extraction for use by Grantor and Grantee for on-site road construction and maintenance. No new mining operations may be located in the Forest Management Buffer areas or within 100 feet of any state or local highway.

5). Grantor acknowledges the vital importance of the road and trail systems upon the Protected Property to the exercise of the Affirmative Rights of Grantee. Grantee acknowledges the vital importance of the road and trail systems upon the Protected Property to the exercise of the Reserved Rights of the Grantor. Grantor and Grantee agree to cooperate in the management of the road and trail systems in such a way that balances and considers public recreational access and administrative access with the principle objective to conduct forest management activities including the exclusion of the public from areas of forest management operations and reserved

property rights as detailed in the RESERVED RIGHTS and TERMS AND CONDITIONS Sections of this Easement.

6). Grantor and Grantee shall designate the existing roads and trails located upon the Protected Property into three categories: Rifle Season Primary Access Corridors, Primary Access Corridors, and Secondary Access Corridors. These categories are intended to represent the following:

- (a). Rifle Season Primary Access Corridors are defined as those Motorized Access Corridors which are open to public motor vehicle traffic as access to the adjoining Forest Preserve lands including the rifle season for white tail deer. During the rifle season for white tail deer, the Rifle Season Primary Access Corridors will be the only roads opened to the public on the Protected Property. The Grantor may not close these travel corridors for any purpose. These corridors may only be closed by Grantee.
  
- (b). Primary Access Corridors are defined as those roads and trails necessary to assure administrative and public access to areas having critical public recreational value, to assure access to adjoining lands owned or later acquired by Grantee, to assure reciprocal access to both Grantor and Grantee to the Protected Property and adjoining fee lands of Grantee (Forest Preserve) to further the objectives of this Easement, to assure access to leased lands and camps. These travel corridors may not be closed by Grantor except to maintain the structural integrity of the road whenever it is adversely affected by weather conditions creating such hazards as mud and ice. The roads

to be closed under this provision and the duration of said closure shall be mutually agreed upon by Grantor and Grantee. Primary Access Corridors shall be closed by the Grantee during the white tail deer season or as otherwise set forth in the Land Management Plan.

Grantee may also close these corridors to public recreational access at its discretion.

The designation of Rifle Season Primary Access Corridors and Primary Access Corridors shall be set forth on the Maps of Protected Property and may be amended in the Land Management Plan as new roads and trails are constructed or as Grantor and Grantee agree to otherwise redesignate existing roads and trails.

- (c). Secondary Access Corridors are defined as those roads and trails which, although not critical to the administrative and public access rights of Grantee, may be necessary for Grantee and the public to obtain full benefit of the recreational rights granted herein.

Secondary Access Corridors shall be designated in the Land Management Plan. Secondary Access Corridors may be closed to public recreational access by Grantee. Secondary Access Corridors may also be closed to public recreational access upon a showing by Grantor that closure is necessary to:

- (i) seasonably avoid damage to the road surface due to weather conditions which would create such hazards as mud or ice; or

- ii) avoid potential conflicts with forestry management activities including logging operations.

In order to effectuate a closing, Grantor must demonstrate that, where practicable, an alternate route of a Secondary Access Corridor will be made available.

- (d). The closure of Secondary Access Corridors pursuant to this Section is not intended to apply to closure of acreage generally, but only to the subject Secondary Access Corridor itself. The right of Grantor to close certain acreages of the Protected Property during active logging operations is limited as set forth in the RESERVED RIGHTS Section of this Easement.
- (e). With the exception of closure zones, Primary Access Corridors and Secondary Access Corridors may be utilized by the Grantee's employees, agents, contractors, etc. for administrative purposes by means of motorized vehicle or any other means Grantee elects. This right is not subject to the requirement that a particular corridor be marked for use by a specific type of motorized access.
- (f). Primary and Secondary Access Corridors may be utilized for public travel by any means permitted under this grant of Easement, provided, however, that said corridors are specifically designated with appropriate signage for the use

permitted. Certain corridors designated as Motorized Access Corridors including Rifle Season Primary Access Corridors may be utilized by means of motorized access only as described in Affirmative Rights Paragraph 4(c) herein.

7). The Grantor and the Grantee acknowledge value of the present road and trail systems located on the Protected Property and will accordingly undertake good faith efforts to preserve and maintain the integrity of the road and trail systems upon the Protected Property. Each party at its sole expense may maintain, repair, correct, upgrade or otherwise improve those roads and trails over which it has the right of use subject to the AFFIRMATIVE RIGHTS, DECLARATION OF RESTRICTIONS AND RESERVED RIGHTS, herein. The Grantor shall have the duty and responsibility to repair and correct at the Grantor's expense damages caused to these roads and trails by the Grantor, its invitees, licensees, guests, lessees, officers, employees, agents or contractors. The Grantee shall have the duty and responsibility to repair and correct at the Grantee's expense, and subject to the availability of funds, damages to those portions of the roads and trails to which it and the public have the right of use caused either by the public's recreational use of the property or directly by Grantee, its invitees, guests, officers, employees, agents and contractors. Minimum standards and specifications for forestry use roads and trails and minimum standards and specifications for roads and trails to be used by the public are to be incorporated into the Land Management Plan. The information contained in the Land Management Plan shall serve to determine whether such road or trail meets said standards and specifications to be opened to the public and whether a road or trail, while in use for forestry purposes by the Grantor and/or by the public as a

Primary or Secondary Access Corridor, requires maintenance, repair, upgrade or other corrective action. If funding by the Grantee is not available for such corrective action once a road or trail is opened to the public, (i) the road shall be closed until such repairs are made; or (ii) the Grantor may undertake the work with said road or trail closed to public access until Grantee reimburses Grantor, said reimbursement to include comparable road and/or trail work mutually agreed to by the parties elsewhere on the Protected Property. The parties may mutually agree to temporarily close any road or trail or portion thereof or other appropriate action to protect the public, to protect the structural integrity of a road or trail, and protect against other abusive actions by the public. The parties may mutually agree to abandon any road or trail or portion thereof located on the Protected Property, but any abandonment shall not preclude the reopening of any such road or trail in the future by mutual agreement and, unless otherwise agreed upon, at the expense of the party desiring to reopen any such road. Mutual agreement as used in this paragraph will not be unreasonably withheld by either party.

8). The Grantor, for itself and its successors and assigns, and the Grantee hereby agree that the terms of this Easement are to be construed so as to preserve perpetually the Protected Property as a sustainable forest, provided however that nothing herein contained shall impair the exercise of the Reserved Rights.

9). Grantor and Grantee shall make every reasonable effort to abide by the terms of the agreement. However, the failure of the Grantee to insist upon the strict performance of any of the terms, conditions, covenants, or restrictions contained herein, shall not be deemed a waiver of any terms, nor shall any such failure of the

Grantee in any way bar its enforcement rights hereunder in the event of any subsequent breach of, or noncompliance with, or fault in observance of, any of the terms, covenants or restrictions contained herein.

10). The Grantor and the Grantee agree that within six (6) months of the recording of this Easement, a Report of Physical Inspection of Protected Property will be completed by Grantee at no expense to Grantor except that Grantor shall bear the expense of the involvement, if any, of its staff. Said Report will accurately and completely describe the natural and manmade condition of the Protected Property on the date thereof. Said Physical Inspection Report will be subscribed to by both the Grantor and the Grantee indicating their concurrence that such report accurately and completely describes the Protected Property as of the date thereof.

11). In the event of a breach of any of the covenants, restrictions, terms or conditions of this Easement, and notwithstanding any other language in this instrument to the contrary, either party shall notify the other of any failure to comply with any of the terms of this instrument. Such notice shall set forth how the accused party can cure such alleged noncompliance and give the accused party 60 days from the date of receipt of the notice in which to cure, which time period may be extended in light of the severe weather conditions that exist during the months of November through April of each year. In the alternative, the accused party shall within the same 60 day period initiate dispute resolution proceedings as set forth in the Land Management Plan pursuant to paragraph 24 of the TERMS AND CONDITIONS Section of this Easement. At the expiration of such period of time to cure, the complaining party shall notify the accused party of any failure to adequately cure the

deficiencies set forth in the initial notice. The accused party shall then have an additional fifteen (15) days from receipt of such notice to cure such deficiencies. At the expiration of said fifteen-day (15) period or dispute resolution, but not prior thereto, either party may commence legal proceedings to require compliance with the terms of this Easement. All notices required by this paragraph and by any other provisions of this Easement, shall be in writing and delivered to the appropriate party by personal service or delivered by certified mail return receipt requested.

12). It is understood and agreed by the parties hereto that the Grantor, its successors and assigns shall not be liable for any changes to the Protected Property caused by any natural disaster or act of God, acts of Grantee, its agents and representatives or the acts of the public while on the Protected Property pursuant to the public access rights granted by this Easement.

13). In the event that any existing structure on the Protected Property legally owned by Grantor is determined, according to applicable local land use regulations, to have deteriorated to such a condition that it is dangerous to occupy or be around, the Grantor, at its sole cost and expense, shall either correct the hazard, or demolish such structures. The Grantor may remove those structures by burning and burying the rubble subject to existing laws and regulations.

14). Both the Grantor and the Grantee may, but neither is under obligation to the other to, mark boundaries or corners of the Protected Property. Subject to available funding, the Grantee will erect such signs and install gating or other barriers as are necessary to describe the rights, and insure implementation of those rights, both the Grantor and the Grantee have to the Property. The Grantor and the Grantee shall

mutually agree to the wording of said signs prior to their erection. Grantee shall survey, at its own expense, the boundaries of Grantee's fee lands which adjoin the Protected Property.

15). The Grantee in cooperation with Grantor shall develop a method to be detailed in the Land Management Plan for the removal of any new debris, such as papers, bottles, cans or other garbage or debris left on the Protected Property by the public utilizing the same. The Grantee, at its sole expense, subject to availability of funds, is obligated to promptly remove such trash as may be created by the public, Grantee, or its employees, agents and invitees. If funding is not available for trash removal, the Grantee and Grantor may mutually agree to close the Property to public use. Grantee shall be solely responsible for implementing and enforcing any such closure.

16). It is understood and agreed by the parties that the underlying fee title to the Protected Property remains in the Grantor, subject to the terms of this Easement, and that the lands constituting the Protected Property do not, by the granting of this Easement, become a part of the Forest Preserve.

17). Nothing herein contained shall be construed to permit the removal of any trees, plants, firewood or other forest products by the general public or lessees of Grantor, provided, however, that dead or downed trees may be used only for purposes of on-site cooking, and warming or smudge. Any other use of the wood by the public, or by lessees of Grantor, is expressly prohibited.

18). This Conservation Easement shall not be construed to remove the necessity of the Grantor or Grantee from obtaining any permit and/or approval from any governmental agency having jurisdiction over any activity on the Protected Property.

19). This Easement may be amended by the parties hereto by mutual agreement in writing, executed by both parties and recorded in the Clerk's office, or in accordance with the provisions of Section 49-0307 of the Environmental Conservation Law.

20). Except as otherwise specifically provided for herein, it is mutually agreed that whenever a consent or approval is required from either the Grantor or the Grantee, the party seeking the consent or approval shall send a written request for such consent or approval by registered or certified mail, return receipt requested, to the address of the other party as hereinafter provided and said party shall respond to said request within sixty (60) days of its receipt. In the event that the consenting or approving party fails to respond within said sixty (60) day period, its consent or approval shall be implied. The Grantor and Grantee can provide for alternative means of receiving mutual consent or approval such as telephone communications provided said means are established in the Land Management Plan.

21). Any notice required to be sent to the Grantor herein shall be addressed to:

Heartwood Forestland Fund III, LP  
c/o Thomas Massengale, President  
The Forestland Group, LLC  
1512 East Franklin Street  
Chapel Hill, North Carolina 27516

Any notice required to be sent to the Grantee herein shall be addressed to:

Director, Division of Lands and Forests  
NYS Department of Environmental Conservation  
50 Wolf Road  
Albany, NY 12233-4250.

Provided however, either party may change the individual or address to which notices are to be sent by giving written notice thereof to the other party.

22). The Grantor and the Grantee will cooperate in the enforcement of the terms of this Easement. In the event that the Grantee determines that legal proceedings are necessary against some party other than the Grantor, its successors, assigns, agents, contractors or invitees, then the Grantor may agree to join the Grantee in pursuing such legal proceeding provided that nothing herein contained shall obligate the Grantor to expend any funds, other than for its review of papers and execution thereof.

23). The Grantee intends to schedule periodic inspections of the Protected Property to determine compliance with the terms of this Easement. In doing so, the Grantor will be provided with fourteen (14) days notice and the Grantor will have the right to accompany the Grantee on said inspection trips. Grantor will be provided with a copy of the Inspection Report within thirty (30) days of the inspection.

24). Grantor and Grantee agree that the Land Management Plan shall include a Dispute Resolution Process to assure those provisions in this Easement requiring consent, agreement, approval or compliance by any party are resolved.

25). In the event this Conservation Easement should be determined to be "void ab initio" by a court of competent jurisdiction in accordance with the provisions of Section 49-0311 of the Environmental Conservation Law, the Grantor shall, upon request by the Grantee, reconvey without change or modification and for no consideration this Conservation Easement to a qualified nominee selected by the Grantee; said reconveyance to be made after such declaration that the Conservation

Easement is "void ab initio" regardless of the fact that the Grantee may pursue its right of appeal, or otherwise. In furtherance of this provision:

- (a). The Grantee shall have the right of enforcement of the reconveyance by the Grantor to the nominee by any legal means.
- (b). The form of reconveyance shall be satisfactory to the Grantee and approved by the Attorney General of the State of New York.
- (c). This provision shall inure to the benefit of and bind the successors and assigns of both the Grantor and Grantee.
- (d). The Grantee shall pay any costs and expenses, including but not limited to taxes, filing fees and reasonable attorney's fees that the Grantor may incur as a result of the reconveyance of the Conservation Easement pursuant to the terms of this paragraph.

#### DECLARATION OF RESTRICTIONS

The parties, their assigns and successors-in-interest, agree that the following restrictions shall apply to the Protected Property in perpetuity:

- 1). No Forest Management Activities shall be permitted except as provided for in the RESERVED RIGHTS and TERMS AND CONDITIONS Sections hereof.<sup>2</sup>

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<sup>2</sup> As used herein, the term "forest management" shall mean: the right to manage the Protected Property to meet landowner objectives for forest products, consistent with the terms of this Easement, including the right to harvest for commercial forest management operations, (including, but not limited to, the removal of forest products such as trees, logs, poles, posts, pulpwood, firewood, chips, seeds, seed cones, and all sugar maple products); to allow for forest related recreational activities (including, but not limited to, hunting, fishing, hiking, mountain biking, horseback riding, cross-country skiing, snowmobiling); to plant trees in non-forested areas; to reforest, plant, grow and harvest forest products and other vegetation; to clear or restore forest cover damaged or destroyed by fire, water, ice, or natural disaster; to selectively prune or trim trees, foliage and other vegetation; to harvest forest products with mechanical equipment and/or with domestic animals; to apply any herbicides, pesticides, fungicides, rodenticides and insecticides as may be appropriate for forest management objectives and consistent with applicable statutes and regulations; to maintain existing fields, meadows, roads, trails and landing yards including the use of culverts, fences and barriers. This shall include the right to the cutting and

2). No buildings, residences, mobile homes or other structures, signs, billboards or other advertising material shall be constructed or placed in, on, over, under or upon the Protected Property except as allowed on the 5-acre development sites permitted in APA Permit No. 98-313, or as otherwise provided for in this Easement. Both Grantor and Grantee may erect signs, gates, fences or other barriers as may be necessary to carry out their rights and obligations hereunder, provided that all signs, gates, fences and barriers displayed by Grantor or Grantee shall conform to the Land Management Plan and Forest Management Plan.

3). The property may not be subdivided except as provided for in the RESERVED RIGHTS Section. The correction of a boundary line location, the maintenance of existing recreational leases or the creation of new leases shall not constitute a subdivision for purposes of this provision.

4). No application of pesticides, including but not limited to insecticides, fungicides, rodenticides and herbicides shall be allowed except as provided in the RESERVED RIGHTS Section.

5). No dumping or storing of ashes, sawdust, noncomposted organic waste (excepting organic logging debris), "offsite" sewage or garbage, scrap material, sediment discharges, oil and its by-products, leached compounds, toxic fumes or any other unsightly or offensive material shall be allowed in, on, over, under or upon the Protected Property, except as provided in the RESERVED RIGHTS Section.

6). No motorized vehicles shall be operated on the Protected Property by Grantor, its employees, agents, contractors and invitees, except as they may be used to carry out

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removal of trees from the growing site, and the attendant operation of mobile or portable sawmills or chippers, the use of a limited number of concentration yards and one commercial sawmill, and of cutting, forwarding and skidding machinery or such future equipment or technology as shall perform the same or similar tasks, including the creation and use of skid trails, skid roads and winter haul roads, including associated bridges, culverts and log yards and the construction or creation of permanent land management roads except as otherwise restricted or reserved herein.

forest management activities, fire protection or other emergency needs, and for the furtherance of Grantor's RESERVED RIGHTS. No off-road or off-trail use of motorized vehicles shall be permitted on the Protected Property by Grantor, its employees, agents, contractors and invitees, except as they may be used to carry out forest management activities, fire protection or other emergency needs, and for the furtherance of Grantor's Reserved Rights. This restriction does not impair the public access rights provided for herein, or access rights enjoyed by Grantor as a member of the public, or any of Grantee's access rights described in this Easement.

7). No permanent exterior artificial illumination shall be employed on the Protected Property, other than that employed on the date hereof, without prior written consent of the Grantee, except as is reasonably required for enjoyment of the RESERVED RIGHTS by the Grantor.

8). No residential, commercial or industrial activities of any kind shall be permitted on the Protected Property other than those specifically provided for in this Easement.

9). Except as may be specifically permitted in the RESERVED RIGHTS Section or pursuant to Environmental Conservation Law Section 49-0307, no new telephone, telegraph, cable television, electric, gas, water or sewer or other utility lines shall be routed over, under, in, on, upon or above the Protected Property without the prior material written consent of the parties hereto, such consent not to be unreasonably withheld.

10). No mining will be conducted and no minerals, gas or oil will be extracted from the Protected Property except the on-site use of gravel as provided for in the Affirmative and Reserved Rights Sections of this Easement.

AND THE GRANTOR DOES FURTHER COVENANT AND REPRESENT  
AS FOLLOWS:

FIRST: The Grantor, for itself, its successors and assigns, covenants and agrees to pay all taxes and assessments lawfully assessed against its interest in the Protected Property and to furnish upon request to the Grantee copies of tax receipts showing such payment. In the event that the Grantor, its successors or assigns fail to pay any such taxes or assessments within twelve (12) months of their original due date, then the Grantee may pay such taxes or assessments. The Grantee shall seek to recover the cost of taxes through the appropriate legal means.

SECOND: The Grantor for itself and its successors and assigns covenants and agrees that any subsequent conveyance of the Protected Property, or any lease, mortgage, or other transfer or encumbrance of the Protected Property shall be subject to this Easement and that any instrument evidencing such transfer, lease, mortgage or encumbrance shall contain the following statement: "This (grant, lease, mortgage, Easement, etc.) is subject to a certain Easement entered into between

dated \_\_\_\_\_, and recorded in the Office  
of the Clerk of \_\_\_\_\_, in Book \_\_\_\_\_ of Deeds and Page \_\_\_\_\_

THIRD: The Grantor, for itself and its successors and assigns, covenants and agrees to indemnify and hold the Grantee harmless against all claims, loss, damage and expense the Grantee may suffer as a result of the Grantors negligence in the course of exercising the forest management rights reserved hereunder.

The Grantee, for itself and its successors and assigns, agrees to indemnify and hold the Grantor harmless against claims, loss, damage and expense the Grantor may suffer as a result of the Grantee's negligence in properly constructing,

maintaining, repairing, replacing or managing any public recreation or recreational amenities and actionable conduct of the Grantee as permitted by the Court of Claims Act and Section 17 of the Public Officers Law.

The duty to indemnify and save harmless prescribed by this paragraph shall be conditioned upon (i) delivery to the Attorney General by the Grantor of the original or a copy of any summons, complaint, process, notice, demand or pleading within fifteen (15) business days after it is served with such document, (ii) representation by the Attorney General or representation by private counsel of Grantor's choice, subject to the approval of the Attorney General, whenever the Attorney General determines in his sole discretion based upon his investigation and review of the facts and circumstances of the case that representation by the Attorney General would be inappropriate, and (iii) the full cooperation of the Grantor in the defense of such action or proceeding against the Grantee based upon the same act or omission, and in the prosecution of any appeal.

FOURTH: The parties agree that the provisions of this Indenture are severable and that if any court of competent jurisdiction shall render a judgment voiding or nullifying any provisions hereof, the effect of said judgment shall be limited to the nullified or voided portion of this Easement, and the remaining provisions hereof shall continue in full force and effect.

TO HAVE AND TO HOLD THE ABOVE GRANTED EASEMENT UNTO THE GRANTEE AND ITS SUCCESSORS FOREVER.

And the Grantor does covenant with the Grantee as follows:

FIRST: The Grantor covenants that it has not done or suffered anything whereby the said premises have been encumbered in any way whatever;

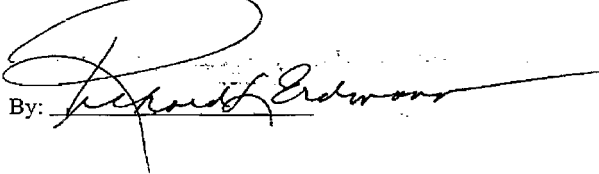
SECOND: This Conservation Easement is subject to those "Permitted Encumbrances" identified at paragraph 3.3 of the Timberland Purchase and Sale Agreement dated December 3, 1998 between Champion International Corporation, the Conservation Fund, and First American Title Insurance Co.; and

THIRD: That this conveyance is made subject to the trust fund provisions of Section 13 of the Lien Law.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.


Fed ID # *52-1388917*

THE CONSERVATION FUND

By: 

Its: *S.R.V.P.*

THE PEOPLE OF THE STATE OF NEW YORK  
Acting by and through the  
Department of Environmental Conservation

By:   
John P. Cahill, Commissioner

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

On this 30th day of June, 1999, before me came Richard L. Erdmann to me known who, being by me duly sworn, did depose and say that he resides at 907A Seneca Road, Great Falls, VA, that he is the Senior Vice President of The Conservation Fund, the corporation described in and which executed the foregoing instrument, and that he/she signed his/her name thereto by order of the Board of Directors of said Corporation.

  
NOTARY PUBLIC STATE OF NEW YORK

**ROBERT K. DAVIES**  
Notary Public, State of New York  
No. 02DA6014462  
Qualified in Albany County  
Commission Expires 12/13/2000

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

On this 30th day of June, 1999, before me, personally came John P. Cahill to me known, who being by me duly sworn, did depose and say that he resides at , New York and is the Commissioner of the New York State Department of Environmental Conservation, that he executed the foregoing on behalf of the New York State Department of Environmental Conservation, pursuant to authority of law duly delegated.

  
NOTARY PUBLIC STATE OF NEW YORK

**ROBERT K. DAVIES**  
Notary Public, State of New York  
No. 02DA6014462  
Qualified in Albany County  
Commission Expires 12/13/2000