

Forest Planting and Maintenance Agreement
Town of La Plata



This Forest Planting and Maintenance Agreement ("Agreement"), made this _____ day of _____, 20__, by and between _____, hereinafter referred to as "Owner" and the Town of La Plata, hereinafter referred to as "Town".

WITNESSETH:

Whereas, Owner has elected to engage in a regulated activity as defined by Chapter 173, Article VII of the Code of the Town of La Plata, entitled Forest Conservation, (hereinafter referred to as "Ordinance") on certain property located in the Town of La Plata (hereinafter referred to as "Site") and more particularly described as follows:

Property Owner(s): _____

Property Address: _____

(If Applicable) Subdivision: _____ Lot #: _____

Deed Reference: _____

Tax Map: _____ Parcel #: _____

Total (On-Site) Acreage: _____

Acreage under Maintenance Agreement: _____

Whereas, pursuant to the provisions of COMAR Title 8, Subtitle 19 and the Ordinance, the Owner has submitted and the Town has approved a Final Forest Conservation Plan (the "Plan"), which is hereby incorporated by reference and made a part of this Agreement and which

Two Year FC Maintenance Agreement

provides for the forest retention, reforestation or afforestation required as a condition of approval of Owner's regulated activity; and

Whereas, Owner is prepared to plant and thereafter to maintain, manage, and monitor for a minimum of two complete years the required reforestation or afforestation in accordance with the Plan, the Ordinance, the State Forest Conservation Manual (the "Manual") and the terms of this Agreement; and

Whereas, pursuant to the provision of COMAR Title 8, Subtitle 19, the Ordinance and the terms of this Agreement, Owner has delivered to the Town acceptable surety which guarantees the timely and satisfactory performance of Owner's requirements under the Plan, the Ordinance, the Manual and the terms of this Agreement; and

Whereas, Owner has provided to the Town an acceptable, long-term, binding, protective agreement that provides protection for land forested, afforested or reforested under COMAR Title 8, Subtitle 19 and the Ordinance, and limits the uses of forest to those are consistent with forest conservation.

Now, therefore, in consideration of the foregoing promises and the mutual covenants and agreements hereinafter expressed, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Owner Planting and Maintenance.
 - A. Owner hereby covenants and agrees, at its sole cost and expense, to provide, plant, maintain, manage, and monitor the reforestation or afforestation plantings and to preserve the forest conservation areas as required by COMAR Title 8, Subtitle 19, the Plan, the Ordinance and the Manual in a manner which ensures the protection and satisfactory establishment of the planted material, including reinforcement planting if survival rates fall below the standard set forth in the Manual. (These obligations of the Owner are collectively referred to as the "Work".)

- B. Owner shall complete the plantings in a timely manner, in accordance with the Plan, and shall monitor and maintain said plantings for a minimum period of two (2) years after the date of certification by Owner's designated qualified professional, hereinafter identified, that all required afforestation and reforestation plantings have been installed as required, provided that the two (2) year period may be extended at the Town's discretion to the extent that replacement plantings are required to ensure the required survival rate.
2. Forest Conservation Area. The area designated for forest retention, reforestation, or afforestation (the Forest Retention Area) shall be as designated on the Final Subdivision Plat recorded among the land records of Charles County, the Site Development Plan or grading permit if on-site or on the appropriate plat off-site. **Reference to the Subdivision Plat, Site Development Plan or grading permit shall be attached hereto as Exhibit A.**
3. Professional Services.
- A. Owner has retained, at Owner's expense, the services of _____ (hereinafter referred to as "Consultant") to prepare the Plan, perform inspections and prepare the inspection reports and Certificate of Completion required under this Agreement. The Owner has provided to the Town satisfactory evidence of the Consultant's professional qualification to perform the aforesaid service pursuant to all applicable laws and ordinances.
- B. Owner has retained, at its sole cost and expense, the services of _____ (hereinafter referred to as "Contractor") to perform the "Work" required under this Agreement. The Owner has provided to the Town satisfactory evidence of Contractor's professional qualification to perform the aforesaid services pursuant to all applicable laws and ordinances.
4. Commencement of the Work. Owner agrees that the Work shall not begin until the following has occurred:
- A. All agreements have been executed, all required securities have been posted, all construction drawings have been approved by the Town for the Subdivision or

Site, and where the Work is to be performed off-site, for the Subdivision or Site wherein the work is to be located.

- B. Notice has been provided of the starting date to the Town of La Plata Planning Department.
5. Certificate of Completion. Owner shall provide the Town with a written certification ("Certificate of Completion") executed by Owner's when the reforestation and afforestation plantings required by the Plan have been installed and the appropriate protective measures have been put in place for these plantings and for the Forest Retention Areas.
6. Protection and Maintenance. After the issuance of the Certificate of Completion, Owner shall perform all tasks necessary to maintain and protect plantings and the Forest Retention Area for the duration of this Agreement in accordance with COMAR Title 8, Subtitle 19, the Ordinance, the Plan, the Manual and the terms of this Agreement. The protection and maintenance hereunder shall be as delineated in the Plan and the Manual and include, but are not limited to:
- A. Properly preparing the site for the planting;
 - B. Planting species or approved cultivars native to the physiographic region of the State and compatible with the existing site;
 - C. Watering, fertilizing, mulching, thinning, replacement of damaged or dead plant materials, controlling competing vegetation, and protecting plants from disease, pests and mechanical injury during the initial planting and throughout the two (2) year maintenance period as necessary; and
 - D. Providing protective devices such as fencing, retainer walls, and interpretive signs as necessary to prevent the destruction or degradation of the planting site.
7. Inspection.
- A. The Owner shall cause its Consultant to inspect the Forest Retention Area at the beginning and end of each growing season during the term of this Agreement and shall, within thirty (30) days after each inspection, provide to the Town an inspection report which identifies particular problems, sets forth the survival rates, and specifies remedial actions necessary to correct existing problems.

- B. The Town shall inspect the Forest Retention Area to the extent it deems necessary during the period of this Agreement to ensure that the Work is being performed in accordance with the requirements of this Agreement, the Ordinance, and the Plan. During the period of this Agreement, Owner hereby grants to the Town an easement for ingress and egress to, over, and through the Forest Retention Area for the purpose of conducting said inspections.
8. Security Reduction. After one (1) growing season, the Owner may request a reduction of the amount of the bond or other financial security provided in conjunction with this Agreement, in accordance with the provisions of the Ordinance.
9. Final Approval and Release of Security. After two (2) years following the Town's receipt of the Certificate of Completion, or any extension thereof, Owner may request that the Town approve the Forest Retention Area as being established, maintained, and protected in accordance with the Plan, the Ordinance, the Manual, and other applicable laws, and release the Owner's security. Upon the Town's approval of Owner's request, Owner shall notify any entity which shall have assumed ownership of and long-term responsibility for the Forest Retention Area.
10. Long Term Protection Agreement. In the event that Owner elects to satisfy the requirement for long-term protection by covenant, deed restriction, or easement, Owner shall execute and deliver a legally-binding protective agreement to the Town concurrently with the execution of this Agreement for recording among the land records of Charles County. Protection agreements in the form of a Forest Conservation Act Easement shall be filed with the Town simultaneously with the execution of this Agreement.
11. Binding Effect; Covenant Running with Land. This Agreement is binding and inures to the benefit of the Town and the owner and their respective heirs, personal representatives, successors and assigns, and shall bind and is a covenant running with the Site.
12. Indemnification. Owner covenants to indemnify and save the Town harmless from and against any and all claims, actions, damages, liability, and expense of any nature,

including reasonable attorneys' fees and the Town's cost of defense, in connection with the loss of life, personal injury, and/or damage to or loss of property that arises from the performance of the Work or other related activity of the Owner, Owner's Consultant, contractors, servants, employees, or other agents of the Owner in, on, about, or impacting on, the Forest Retention Area or any easements, open space, park land, or other property dedicated, leased or licensed to, or owned or occupied by the Town.

13. General Provision:

- A. Owner agrees to waive and hereby waives all right of appeal as to the issue of the necessity and requirement for the performance of the Work which is the subject of this Agreement.
- B. Any assignment or pledge of this Agreement must be consented to, in writing, by the Town prior to such assignment or pledge; otherwise, said assignment or pledge shall be invalid.
- C. Failure to comply with the terms of this Agreement, the Plan, the Ordinance, or Manual shall subject the Owner to the penalties provided in the Ordinance, including but not limited to a penalty of thirty cents (\$0.30) per square foot of area found to be in noncompliance, and the right to forfeiture of the posted security.

In witness whereof, the parties have executed this Agreement under their respective hands and seals as of the day and year first above written.

ATTEST:

APPROVED AND AGREED TO:

Owner:

ATTEST:

Town of La Plata

Brent Manuel, Town Manager

STATE OF MARYLAND, COUNTY OF CHARLES, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 20__ before me, the subscriber, a Notary Public of the State and County aforesaid personally appeared _____, the authorized agent for _____ and duly acknowledged the foregoing Forest Planting and Maintenance Agreement to be his/her act.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF MARYLAND, COUNTY OF CHARLES, to wit:

I HEREBY CERTIFY that on the ____ day of _____, 20__, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Daniel J. Mears, known to me or satisfactorily proven to be the Town Manager of the Town of La Plata, a political subdivision of the State of Maryland, and acknowledged that, being duly authorized to do so, he executed the within instrument on behalf of the Town of La Plata for the purposes therein contained.

WITNESS my hand and Notarial seal.

Notary Public

My Commission expires:_____

AFTER RECORDATION RETURN TO:

Brent Manuel, Town Manager
305 Queen Anne Street
P.O. Box 2268
La Plata, Maryland 20646

EXHIBIT A