**Tax Account Nos.:**

**Title Insurer:**

**UPON RECORDATION, RETURN TO:**

*Attorney*

*Law Firm*

*Address*

**DECLARATION OF RESTRICTIVE COVENANT**

(for Parent Tract)

THIS DECLARATION OF RESTRICTIVE COVENANT/EASEMENT (“Declaration”) is made this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 2017, by **[*insert name of Covenantor*]** (“Covenantor”).

WHEREAS, Covenantor is the fee simple owner of **[*describe property and attach Exhibit*]** (the “Property”); and

WHEREAS, the Property is in the Agricultural Reserve (“AR”) Zone, formerly the Rural Density Transfer Zone, which limits development to one (1) one-family dwelling unit for every twenty-five (25) acres of land; and

WHEREAS, the Property…

**[*provide Property’s size, and history of serialization of transferrable development rights (“TDR Easements”), retained development rights (“Development Rights”), other information including agricultural preservation easement, with proper liber/folio references, necessary to demonstrate that development rights are available for the desired dwellings/uses*]**

WHEREAS, since the time of the Covenantor’s conveyance of \_\_\_ of the \_\_\_ Development Rights associated with the Property in **[*year*]**, the Covenantor has not sold or transferred any of the \_\_\_\_ remaining Development Rights; and

WHEREAS, the Property is presently improved [***or unimproved***] with the Covenantor’s residence and \_\_\_\_\_ farm tenant dwellings; and

WHEREAS, on **[*Month, date, year*]*,*** the Covenantor filed with the Montgomery County Planning Board (the “Planning Board”) **[*insert* Pre-Preliminary Plan of Subdivision *or* Administrative Subdivision Plan, *as appropriate*]** No. **[*insert plan number*]** that would create \_\_\_\_ lot(s) on the Property of [***insert size of lot(s)*]** (the “Subdivision Plan”); and

WHEREAS, on **[*date of approval*]**, the Montgomery County Planning Board **[or Department]** approved the Subdivision Plan, subject to certain conditions; and

WHEREAS, Covenantor has filed record plat application no. **[*insert plat application number*]** to effectuate the Subdivision Plan, which will create, *inter alia*, a \_\_\_ acre unplatted farm remainder on the Property (“Farm Remainder”); and

WHEREAS, Montgomery County Subdivision Regulations Section 50.6.1.B.4 requires the recordation of a covenant on the Farm Remainder noting that \_\_\_\_ of the \_\_\_\_ available Development Rights are allocated to the **[*insert as appropriate:* Covenantor’s residence (“Existing Dwelling”) and the existing \_\_\_\_ farm tenant dwelling(s)]** located thereon and the \_\_\_\_ remaining Development Rights are allocated to the \_\_\_\_ proposed lot(s) on the Property as shown on the Subdivision Plan; and

NOW, THEREFORE, the Covenantor does hereby agree, for himself and his successors and assigns that:

1. The recitals set forth above are incorporated herein by reference and made a part hereof.

2. The TDR Easements established that the Property was entitled to \_\_\_\_ Development Rights following the serialization of \_\_\_\_of its initially allocated \_\_\_ Development Rights.

**[*X*]**. Since the serialization \_\_\_\_ of the Property’s allocated \_\_\_ Development Rights in **[*year(s)*]**, Covenantor has not conveyed any of the remaining \_\_\_\_\_ Development Rights to any party and has reserved them for use upon the Property.

**[*X***]. Covenantor acknowledges that one (1) of the \_\_\_\_ reserved Development Rights has been allocated to the Existing Dwelling **[*insert if necessary:* and\_\_\_\_ Development Rights are presently allocated to the \_\_ farm tenant dwellings all of which are]** located on the Property.

**[*X*]**. Covenantor acknowledges that the \_\_\_ remaining Development Rights allocated to the Property are to be used for the proposed \_\_\_acre lot **[and the \_\_ acre lot]** depicted on the Subdivision Plan as approved by the Planning Board or Planning Department staff.

**[*X*]**. Under Section 59.4.2.1.D.1 of the Montgomery County Zoning Ordinance in effect at the time of approval of the Subdivision Plan (“Zoning Ordinance”), only \_\_\_\_ one-family dwelling unit(s) **[is/are]** permitted on the Property.

**[*X*]**. Covenantor acknowledges that the Subdivision Plan will create \_\_\_\_ lot(s), **[*each*]** to include one single-family dwelling, and a Farm Remainder of \_\_\_\_\_ acres that will contain the Existing Dwelling **[*insert if necessary:* and\_\_\_\_ farm tenant dwellings]**. Upon recordation of a plat memorializing the subdivision, and unless a change in the zoning of the farm remainder permits additional dwellings, the Farm Remainder will be able to accommodate a maximum of \_\_\_\_ **[*or if necessary* unable to accommodate any]** additional one-family dwelling units, including, under Zoning Ordinance Section 59.4.2.1.D.1, a farm tenant dwelling, farm tenant mobile home, or guest house.

**[*X*]**. The covenants contained herein shall run with the land and shall bind Covenantor and Covenantor’s heirs, successors and assigns, and shall bind all present and subsequent owners of the Property.

**[*X*]**. This Covenant shall be recorded among the land records of Montgomery County, Maryland prior to the recordation of the final record plat and shall be reflected on the final record plat by references to the liber and folio.

IN WITNESS WHEREOF, the Covenantor has executed this Declaration of Covenants as of this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2017.

WITNESS: COVENANTOR:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[*insert covenantor’s name*]**

STATE OF MARYLAND, COUNTY OF MONTGOMERY, to wit:

I HEREBY CERTIFY that on this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 2017, before me, a notary public in and for the State and County aforesaid, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission Expires: Notary Public

THIS IS TO CERTIFY that the within instrument was prepared under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[*insert attorney’s name*]**