

Prepared by: Nicholls & Crampton, P.A., Raleigh, North Carolina

Return to:

DECLARATION OF RESTRICTION

THIS DECLARATION OF RESTRICTION (the "Declaration") is made this ____ day of _____, 2012, by _____, who resides at _____ (hereinafter "Declarant").

WHEREAS, Declarant is the owner of that parcel of real property containing _____ acres, more or less, having an address of _____, North Carolina, and being more particularly described on **Exhibit A**, attached hereto and incorporated herein by reference (hereinafter the "Property"); and

WHEREAS, Declarant has entered into a contract with NC Foundation for Soil and Water Conservation, Inc., a North Carolina corporation whose address is 5171 Glenwood Avenue, Suite 330, Raleigh, North Carolina ("NCFSWC"). The contract provides for the maintenance and improvement of the natural resources, including agricultural and forestland, located on the Property, and to relieve or eliminate current or anticipated challenges that could restrict, impede, or otherwise interfere with current or anticipated military activities in the Eastern North Carolina Military Training Route (MTR-VR1046) and Special Use Airspace 5306a("Contract"); and

WHEREAS, in order to fulfill its obligations under the Contract, Declarant desires to subject the Property to certain restrictions regarding its use.

NOW, THEREFORE, Declarant does hereby declare that at no time prior to _____, 20____, shall it:

- (a) Change its status with their Present Use Value or Wildlife Conservation Program approved pursuant to NC General Statute 105-277.2 through 105-277.7.
- (b) Erect, construct, install or alter any structure, building, antenna, tower, wire, or other obstruction, whatever its nature, extending more than 100 feet above ground level (AGL)
- (c) Allow exterior light emissions that would interfere with pilot vision. All lighting equipment, including but not limited to floodlights, searchlights

and recreational lighting, and all protective lighting, such as streetlights, shall have positive optical control that shines downward so that no direct light is emitted above the horizontal plane. The Property shall not be used to generate visible emissions which violate the provisions of North Carolina Administrative Code (NCAC) 15 2D.0520, Control of Visible Emissions as these provisions exist on the date of this Declaration of Restriction.

- (d) Construct or permit to be constructed multi-residential or commercial facilities not directly associated with the agricultural operations of the Property.
- (e) Construct or permit landfill operations on the Property requiring a permit or license by a state or local governmental entity.

It is the intention of the Declarant that the restrictions provided for herein shall: (i) run with and be appurtenant to the Property, however reconfigured or subdivided in the future; (ii) be construed as, and is made, a covenant of equitable servitude running with the Property until _____ 20___; (iii) constitute a use for reciprocal benefits to and burden upon the Property; (v) inure to the benefit of and be binding upon Declarant, and upon its tenants, successors in title, and assigns; (vi) remain in full force and effect and be unaffected by any change in ownership of the Property, or by any change of use, demolition, reconstruction, expansion, or other circumstances, except as specified herein; (vii) be construed in accordance with, and governed by, applicable federal and state law as it may affect the rights, remedies, and obligations of the United States; (vii) be enforceable by Declarant, NCFSWC, NC Department of Agriculture and Consumer Service, United States of America, and their respective tenants, successors in title, and assigns, by action at law or in equity; (viii) may not be amended or terminated prior to _____, 20___, by Declarant or any other party without the prior written consent of NCFSWC, which consent shall appear in the amendment or termination document recorded in the office of the Register of Deeds of _____ County, North Carolina.

Declarant covenants and represents that on the date of execution of this Declaration that Declarant is sole owner of the Property in fee simple and has good right to create, establish, and impose this Declaration of Restriction on the use of the Property. Declarant also covenants and warrants that the Property is free and clear of any and all liens and encumbrances, other than existing utility easements, mortgages or deeds of trust, that could impair Declarant's ability to impose the restrictions described in this Declaration.

IN WITNESS WHEREOF, this Declaration is executed by Declarant as of the date first above written.

DECLARANT:

**NC FOUNDATION FOR SOIL AND WATER
CONSERVATION, INC.**, a North Carolina
corporation

By: _____
_____, _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, a Notary Public of the County and State aforesaid, certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated:

Date: _____
_____, Notary Public

(Official Seal)

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, a Notary Public of the County and State aforesaid, certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated:

Date: _____
_____, Notary Public

(Official Seal)

My Commission Expires: _____