

HABITAT MANAGEMENT AGREEMENT

THIS HABITAT MANAGEMENT AGREEMENT (this "Habitat Agreement") is made this ___ day of _____, 20___, by and between _____, (the "Developer"), a Maryland _____, _____ **HOMEOWNERS ASSOCIATION, INC.** (the "HOA"), a Maryland corporation [_____ COUNCIL OF UNIT OWNERS (the "Council"), a Maryland corporation], and **HOWARD COUNTY, MARYLAND**, (the "County"), a body corporate and politic.

WHEREAS, the Developer owns the property described in the deed to the Developer dated _____, _____ and recorded among the Land Records of Howard County, Maryland at Liber _____ Folio _____ (the "Property") and the Developer is subdividing [developing residential condominium units on] the Property pursuant to Final Plan (F_____) entitled "_____" which, upon receiving final approval by the County, will be recorded among the Land Records of Howard County, Maryland (the "Subdivision") [pursuant to Site Development Plan (SDP_____) entitled "_____" (the "Condominium")].

WHEREAS, the Developer incorporated the HOA to serve the residents within the Subdivision and to enforce the declaration of covenants and restrictions encumbering the Subdivision [created a condominium pursuant to the Maryland Condominium Act and established covenants and restrictions for the Condominium].

WHEREAS, the County has adopted a Green Neighborhood Checklist to determine if a particular development is eligible to receive the Green Neighborhood Allocations pursuant to Section 16.1102(7) of the Howard County Code.

WHEREAS, the Developer has prepared a Habitat Management Plan for the Subdivision [Condominium] which the County has reviewed and determined is acceptable to fulfill four (4) credits listed on the Green Neighborhood Checklist.

WHEREAS, as a condition of the County's approval of the Green Neighborhood Allocations for the Subdivision [Condominium], the County, the Developer, and the HOA [Council] desire to set forth the Developer's obligations with respect to the Habitat Management Plan.

WHEREAS, one of the required elements of the Plan is the continued protection of habitat areas identified in the Plan and the HOA [Council] joins in this Habitat Agreement with the Developer and the County to ensure the protection of such habitat areas.

NOW, THEREFORE, in consideration of the covenants and agreements, hereinafter expressed, the Developer, the HOA [Council], and the County agree as follows:

1. **Defined Terms**. For purposes of this Habitat Agreement, the following terms have the meanings set forth below:

"Developer's Consultant" - means the qualified professional whom the Developer has retained at its sole cost and expense to prepare the Habitat Management Plan.

“Habitat Management Area” – means the site or sites within the Property which are identified in the Plan as habitat areas which may require specific action by the Developer and HOA [Council] in accordance with the Plan.

"Plan" - means the Habitat Management Plan prepared by the Developer's Consultant and sets forth the obligations of the Developer under the Plan to undertake certain activities to conserve and enhance the designated resources within the Habitat Management Area and to educate residents and business occupants of the Subdivision [Condominium] about the proper use and protection of the Habitat Management Area.

2. **Developer's Obligations.** The Developer shall commence implementing the short-term elements of the Plan within one (1) year of the date of this Habitat Agreement. The Developer shall complete its obligations identified in the Plan in accordance with the milestones identified in the Plan. Upon the satisfactory completion of the Developer's obligations identified in the Plan, as determined by the County, the County shall provide written notice to the Developer and the HOA [Council] of the County's acceptance of the short-term elements of the Plan and the commencement of the HOA's [Council's] five (5) year obligation to maintain the habitat areas as identified in the Plan.

3. **HOA's [Council's] Obligations for the Protection and Maintenance of the Habitat Management Area.** For a period of five (5) years commencing on the date of the notice from the County referenced in Section 2 hereof, the HOA [Council] shall perform all tasks necessary to maintain and protect the habitat areas identified in the Plan in accordance with the Plan and the terms of this Habitat Agreement and all applicable laws. The tasks delineated in the Plan include but are not limited to: removing debris; installing and maintaining nesting boxes; planting and maintaining vegetation that provides food and cover for wildlife; controlling invasive or undesirable competing vegetation; protecting plant, soil, and water resources from damage and disease; and educating the residents and business occupants about the purpose and protection of the Habitat Management Area.

4. **Annual Notice to Residents.** The Developer or the HOA [Council] shall send a notice each calendar to the residents and business occupants of the Subdivision [Condominium] about the proper use and protection of the Habitat Management Areas. The notice shall specify any actions the residents and business occupants may take to support and continue the objectives identified in the Plan.

5. **Right of Entry; Inspection.** The Developer and the HOA [Council] hereby grant the County the right to enter the Property annually and as needed from time to time, to inspect the Property to determine its compliance with this Habitat Agreement, the Plan, and other applicable laws. The County shall advise the Developer and the HOA [Council] of any deficiencies identified.

6. **Indemnification.**

The Developer covenants to indemnify and save the County harmless from and against any and all claims, actions, damages, liability and expense of any nature, including reasonable attorney's fees and the County's cost of defense, in connection with loss of life,

personal injury and/or damage to or loss of property that arises from the Plan or other activity of the Developer, the Developer's contractors, servants, employees or other agents of the Developer in, on or about, or impacting on, the Property.

7. General Provisions.

7.1. The parties intend to attach an executed copy of this Habitat Agreement to the declaration of covenants and restrictions recorded among the Land Records of Howard County, Maryland for the Property.

7.2. Any assignment or pledge of this Habitat Agreement must be assented to, in writing, by the County prior to such assignment or pledge; otherwise, said assignment or pledge shall be invalid.

7.3. This Habitat Agreement may be amended only by a written amendment signed by the County and the Developer.

7.4. All correspondence regarding this Habitat Agreement and the work to be performed hereunder shall be mailed or personally delivered to the Developer at _____; to the HOA [Council] at _____; and to the County at: 3430 Court House Drive, Ellicott City, Maryland 21043 attention: Director of Planning and Zoning. Either party to this Habitat Agreement may change its address by written notice to the other party.

7.5. This Habitat Agreement was made and entered into in Maryland and is to be construed under the Laws of Maryland.

IN WITNESS WHEREOF, the Developer, the HOA [Council], and the County have caused their duly authorized representatives to execute this Habitat Management Agreement under their respective seals as of the day and year first above written.

WITNESS/ATTEST:

DEVELOPER:

BY: _____(SEAL)

WITNESS/ATTEST:

HOA [Council]:

BY: _____(SEAL)

**AGREED and APPROVED:
HOWARD COUNTY, MARYLAND**

ATTEST:

Lonnie R. Robbins
Chief Administrative Officer

BY: _____(SEAL)

Ken Ulman
County Executive

[Signatures continued on following page]

APPROVED:

Marsha S. McLaughlin, Director
Department of Planning and Zoning

APPROVED FOR FORM AND LEGAL SUFFICIENCY

this _____ day of _____, 20_____.

Margaret Ann Nolan
County Solicitor