

NOTE: The following Property Assessment and Warranty is provided by the U.S. Army Corps of Engineers, Savannah District, as a standard template document for compensatory mitigation projects. The Property Assessment and Warranty must be completed and returned to the Corps with all attachments included. Any modifications to this template must be identified using track changes or other electronic comparison and explained in an attached addendum. This template should not be construed or relied upon as legal advice or opinion on any specific facts or circumstances. (Template Version Date: **March 30, 2023**)

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## PROPERTY ASSESSMENT AND WARRANTY

This Property Assessment and Warranty (“Property Assessment”) is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by **[insert full legal name(s) of property owner(s)]** (“Property Owner”), for the benefit of the **[insert if an in-lieu fee program or mitigation bank: Interagency Review Team (“IRT”) chaired by the]** Savannah District of the U.S. Army Corps of Engineers (“Corps”). Property Owner acknowledges that this Property Assessment and the statements in it may be conclusively relied upon by **[choose the former if permittee-responsible mitigation; the latter if an ILF program or mitigation bank: the Corps or the IRT]** in approving **[choose one: the permit application for the \_\_\_\_\_ Project or the Department of the Army Permit No. \_\_\_\_\_ or the \_\_\_\_\_ Project as an amendment to the \_\_\_\_\_ In-Lieu Fee (Stream/Wetland) Mitigation Program or the Mitigation Banking Instrument (“MBI”) for the \_\_\_\_\_ Bank].**

This Property Assessment provides a summary and explanation of each recorded or unrecorded lien or encumbrance on, or interest in, the Protected Property (as defined below), including, without limitation, each exception listed in the Preliminary Report issued by **[insert title company name], [insert title report date], [insert title report number]** (the “Preliminary Report”), covering the Protected Property, as described in **Attachments 1 and 2** attached hereto and incorporated by this reference. Specifically, this Property Assessment includes a narrative explaining each lien, encumbrance, interest or other exception to title and the manner in which it may affect the site protection instrument to be recorded against the Protected Property (the “Declaration of Conservation Covenants and Restrictions (DCCR) and/or “Conservation Easement” (CE)) pursuant to the **[choose one: approved mitigation plan or MBI].**

Property Owner covenants, represents, and warrants to **[choose one: the Corps or each of the IRT members]** as follows:

1. Property Owner is the sole owner in fee simple of certain real property containing approximately \_\_\_\_\_ acres located at **[insert address]** in \_\_\_\_\_ County, State of Georgia, designated as Parcel Number(s) **[insert parcel number(s)]** (the “Protected Property”), as legally described in the Preliminary Report. Property Owner has, and,

upon the recordation of the DCCR and/or CE, Property Owner will have, good, marketable and indefeasible fee simple title to the Protected Property subject only to any exceptions approved in advance of recordation, in writing, by the [**choose one:** the Corps or the IRT].

2. The Protected Property is available to be burdened by the DCCR and/or CE for the conservation purposes identified in the DCCR and/or CE, in accordance with the [**choose one:** approved mitigation plan or MBI].
3. The Protected Property includes legal access to and from [**insert name of public street or road**]. [**Note: if special access rights are required to reach the Protected Property, those access rights must also be addressed in this Property Assessment.**]
4. A true, accurate and complete listing and explanation of each recorded or unrecorded lien or encumbrance on, or possessory or non-possessory interest in, the Protected Property is set forth in **Attachment 3**, attached to and incorporated by reference in this Property Assessment. Except as disclosed in **Attachment 3**, there are no outstanding mortgages, liens, encumbrances or other interests in the Protected Property (including, without limitation, mineral interests). **Attachment 4**, attached hereto and incorporated in this Property Assessment by reference, depicts all relevant and plottable property lines, easements, dedications, etcetera, on the Protected Property.
5. Prior to recordation of the DCCR and/or CE, Property Owner will certify to the [**choose one:** the Corps or the IRT] in writing that this Property Assessment remains true, accurate and complete in all reports.
6. Property Owner has no knowledge or notice of any legal or other restrictions upon the use of the Protected Property for conservation purposes, or affecting its Conservation Values, as described in the DCCR and/or CE, or any other matters that may adversely affect title to the Protected Property or interfere with the establishment of a mitigation [**choose one:** project or bank] thereon.
7. Property Owner has not granted any options, or committed or obligated to sell the Protected Property or any portion thereof, except as disclosed in writing to and agreed upon in writing by the Corps.
8. The following attachments are incorporated by reference in this Property Assessment.
  - a. Attachment 1 – Preliminary Report;
  - b. Attachment 2 – Encumbrance Documents;
  - c. Attachment 3 – Summary and Explanation of Encumbrances; and
  - d. Attachment 4 – Map(s)

[Note: Attachment 2 must include copies from the official records of the office of the county register of deeds setting forth all recorded exceptions to title (e.g., leases or easements). Attachment 4 must include (a) map(s) illustrating the area of the Protected Property affected by each exception to title.]

PROPERTY OWNER

\_\_\_\_\_

[Insert property owner full legal name(s)]

\_\_\_\_\_

Date

## ATTACHMENT 3

### Sample format for the Summary and Explanation of Encumbrances

#### MONETARY LIENS

Note: Any deeds of trust or other monetary lien(s) must be released or subordinated to the DCCR and/or CE by a recorded subordination agreement approved by the Corps.

- Preliminary Report Exception or Exclusion No.:
- Amount or obligation secured:
- Term:
- Date:
- Trustor:
- Trustee:
- Beneficiary:  Description:
- \_\_\_\_\_ acres of Protected Property subject to lien
- \_\_\_\_\_ acres of Protected Property not subject to lien

#### EASEMENTS AND RIGHTS OF WAY

- Preliminary Report Exception or Exclusion No.:
- Date:
- Grantor:
- Grantee:
- Holder (if different than Grantee):
- Description:
- Analysis: [whether or how this exception will affect the DCCR and/or CE or the Conservation Values of the Protected Property]
- \_\_\_\_\_ acres of Protected Property subject to easement
- \_\_\_\_\_ acres of Protected Property not subject to easement

#### LEASES

- Preliminary Report Exception or Exclusion No.:
- Date:
- Landlord/Lessor:
- Tenant/Lessee:
- Premises:
- Term:
- Description/Purpose of Lease:
- Analysis: [whether or how this exception will affect the DCCR and/or CE or the Conservation Values of the Protected Property]

- \_\_\_\_\_ acres of Protected Property subject to lease
- \_\_\_\_\_ acres of Protected Property not subject to lease

COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS

- Preliminary Report Exception or Exclusion No.:
- Dated:
- Grantor or Declarant:
- Grantee (if applicable):
- Description:
- Analysis: [whether or how this exception will affect the DCCR and/or CE or the Conservation Values of the Protected Property]
- \_\_\_\_\_ acres of Protected Property subject to exception/exclusion
- \_\_\_\_\_ acres of Protected Property not subject to exception/exclusion

OTHER INTERESTS (INCLUDING MINERAL, TIMBER OR OTHER SEVERED INTERESTS)  Holder:

- Description: [must address whether or not the interest includes any surface rights and, if applicable, a description of those rights]
- Analysis: [whether or how this exception will affect the DCCR and/or CE or the Conservation Values of the Protected Property]
- \_\_\_\_\_ acres of Protected Property subject to interest
- \_\_\_\_\_ acres of Protected Property not subject to interest