

SAMPLE DECLARATION OF RESTRICTIONS FOR FORESTED BUFFERS

THIS DECLARATION OF RESTRICTIONS is made this _____ day of _____, 2012, by Canton Mountain Wind, LLC, 549 South Street, Quincy, Norfolk County, Massachusetts, 02169 (hereinafter referred to as the "Declarant"), pursuant to a permit received from the Maine Department of Environmental Protection (hereinafter the "MDEP") under the Site Location of Development Act, to preserve a buffer area on a parcel of land around the Canton Mountain Wind Project (hereinafter referred to as the "Project"), near Ludden Lane in Canton, Maine, for as long as the Project is operational.

WHEREAS the Declarant holds certain rights and interests through long-term leases to certain real property situated in Canton, Maine, described in a deed from _____ to dated _____, and recorded in Book ____ Page ____ at the Oxford East County Registry of Deeds (herein after referred to as the "Property"); and

WHEREAS Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows:

WHEREAS pursuant to the Site Location of Development Act, 38 M.R.S.A. §§ 481-490 and Department Rules for stormwater management (Chapter 500) promulgated by the Maine Board of Environmental Protection, Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the MDEP during the life of the Project,

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall be maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area for as long as the Project is operational and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with, and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area

must remain undeveloped for as long as the Project is operational. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Site Location of Development Act and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows:

- a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored, or dumped on the Restricted Buffer Area, nor may the topography or the natural mineral soil of the area be altered or manipulated in any way;
- b. Any removal of trees or other vegetation within the Restricted Buffer Area must be limited to the following:
 - i. No purposefully cleared openings may be created and an evenly distributed stand of trees and other vegetation must be maintained. An “evenly distributed stand of trees” is defined as maintaining a minimum rating score of 24 points in any 25 foot by 50 foot square (2500 square feet) area, as determined by the following rating scheme:

Diameter of tree at 4½ feet above ground level	Points
2-4 inches	1
4-8 inches	2
8-12 inches	4
>12 inches	8

Where existing trees and other vegetation result in a rating score less than 24 points, no trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree’s canopy is maintained;

- ii. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;
- c. No building or other temporary or permanent structure may be constructed, placed, or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole, or fence;
- d. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;

- e. Any level lip spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader. Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.
2. Time Period. This deed restriction will run for the life of the Project. This deed restriction will immediately terminate upon decommissioning of the Project.
3. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.
4. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area for as long as the Project is operational. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.
5. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.
6. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area for as long as the Project is operational.
7. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
8. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

(DATE)

COMMONWEALTH OF MASSACHUSETTS, _____ County, dated _____, 2010.

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of his knowledge, information and belief and acknowledged the foregoing instrument to be his free act and deed.

Notary Public