

AMENDED & RESTATED
GRANT OF DEVELOPMENT RIGHTS, CONSERVATION RESTRICTIONS,
and PUBLIC ACCESS EASEMENT

WHEREAS, on even date herewith the TOWN OF NEWBURY, a Vermont municipality located in the County of Orange, State of Vermont (hereinafter, the "Grantor") acquired approximately 626 acres of land located in the Town of Newbury and more particularly described in Schedule A attached hereto and incorporated herein (the "Protected Property") from the VERMONT LAND TRUST, INC., a Vermont nonprofit corporation (hereinafter, the "VLT"); and

WHEREAS, on September 4, 2018 VLT purchased a portion of the Protected Property (the "Leach Family Parcel") from Christina N. L. Clark, Edwin F. Leach II, Suzanne L. Charity, Lucinda Anne Leach and Joshua V. Moody and Alexia C. M. Vondrak, as Successor Co-Trustees of the Thomas and Robin Moody Family Trust (collectively, the "Leach Family"), the heirs to Philip F. Leach and Virginia N. Leach, at price well below the appraised value of such parcel; and

WHEREAS, on September 4, 2018 VLT purchased the remaining portion of the Protected Property (the "T&D Leach Parcel") from Edwin and Deborah Leach, also at a price well below the appraised value of such parcel; and

WHEREAS, Grantor and Grantees (as defined below) recognize the Leach Family's gift of a significant portion of the value of the Protected Property to VLT for the purposes stated herein; and

WHEREAS, on October 9, 1992, Philip F. Leach and Virginia N. Leach conveyed to VLT a Grant of Development Rights and Conservation Restrictions on the Leach Family Parcel, recorded in Book 93, Page 542 of the Newbury Land Records (the "Original Grant"); and

WHEREAS, VLT acquired the T&D Leach Parcel without conservation restrictions; and

WHEREAS, the Grantor, Grantees and the Leach Family desire that the Protected Property be open and available to the public and be available to and as a resource for the residents of the Town of Newbury; and

WHEREAS, Grantor further desires to convey the development rights and conservation restrictions to the T&D Leach Property to VLT and the Vermont Housing and Conservation Board, a public instrumentality of the State of Vermont ("VHCB" and together with VLT, the "Grantees"); and

WHEREAS, Grantor also desires to convey additional conservation restrictions to the Leach Family Parcel to Grantees to eliminate two reserved house rights and associated subdivision rights; to add protections for a vernal pool comprising critical amphibian breeding habitat; to enhance protections for water quality and wildlife habitat by adding protections for riparian and wetland areas; and to provide access to the general public; and

WHEREAS, the parties hereto agree that the Original Grant should be amended to include the T&D Leach Parcel and otherwise be amended to be consistent and generally in conformity with the purposes of the Original Grant as stated therein and for the purposes hereinafter set forth; and

WHEREAS, the parties hereto intend that this Amended and Restated Grant of Development Rights, Conservation Restrictions and Public Access Easement (the "Grant") shall replace the Original Grant in its entirety, and in so doing, Grantor shall hold title in and to the Protected Property subject to this Grant; and

WHEREAS, VLT is a publicly supported non-profit corporation incorporated under the laws of the State of Vermont, and qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code, whose purpose is to preserve undeveloped and open space land in order to protect the aesthetic, recreational, cultural, educational, scientific and natural resources of the state through non-regulatory means, thereby reducing the burdens on state and local governments; and

WHEREAS, the mission of VHCB includes conserving and protecting Vermont's agricultural land, forestland, historic properties, important natural areas and recreational lands; and

WHEREAS, the economic health of Vermont is closely linked to its agricultural and forest lands, which not only produce food products, fuel, timber and other products, but also provide much of Vermont's scenic beauty, upon which the State's tourist and recreation industries depend; and

NEWBURY TOWN CLERK'S OFFICE
RECEIVED FOR RECORD
THIS 12 DAY OF December A.D. 20 18
AT 7 O'CLOCK 04 MINUTES P M AND
RECORDED IN NEWBURY RECORDS BOOK 172 PAGE 747-760
VERMONT LAND TRUST, INC., 8 BAILEY AVENUE, MONTPELIER, VERMONT 05602 (802) 223-5234
ATTEST: *[Signature]* TOWN CLERK

10436

WHEREAS, the State of Vermont has repeatedly sought to foster the conservation of the State's agricultural, forest, and other natural resources through planning, regulation, land acquisition, and tax incentive programs, including, but not limited to, Title 10 V.S.A. Chapter 151 (Act 250); Title 24 V.S.A. Chapter 117 (Regional and Municipal Planning and Development Act); Title 10 V.S.A. Chapter 155 (Acquisition of Rights and Interests in Land); Title 32 V.S.A. Chapter 124 (Current Use Taxation); Title 32 V.S.A. Chapter 231 (Property Transfer Tax); Title 32 V.S.A. Chapter 235 (Land Gains Tax); Joint Resolution #43 adopted by the Vermont House and Senate in February 1982 endorsing the voluntary transfer of interests in agricultural land through agreements between farmland landowners and private land trusts; and, Title 10 V.S.A. Chapter 15 (Housing and Conservation Trust Fund); and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the undersigned hereby replace the Original Grant in its entirety with this Amended and Restated Grant of Development Rights, Conservation Restrictions and Public Access Easement as follows:

KNOW ALL PERSONS BY THESE PRESENTS that the TOWN OF NEWBURY, a Vermont municipality in the County of Orange, Vermont, on behalf of itself and its successors and assigns, hereinafter Grantor, pursuant to Title 10 V.S.A. Chapters 34 and 155 and in consideration of the payment of Ten Dollars and other valuable consideration paid to its full satisfaction, does freely give, grant, sell, convey and confirm unto the VERMONT LAND TRUST, INC., a nonprofit corporation organized under the laws of the State of Vermont, with its principal offices in Montpelier, Vermont, and the VERMONT HOUSING AND CONSERVATION BOARD, a public instrumentality of the State of Vermont with its offices in Montpelier, Vermont, and their respective successors and assigns, collectively known hereinafter as the Grantees, as tenants in common, forever, the development rights, perpetual conservation easement restrictions, and public access easement (all as more particularly set forth below) in the Protected Property being more particularly described in Schedule A attached hereto and incorporated herein.

The development rights hereby conveyed to Grantees shall include all development rights except those specifically reserved by Grantor herein and those reasonably required to carry out the permitted uses of the Protected Property as herein described. The development rights, perpetual conservation easement restrictions, and public access easement hereby conveyed to Grantees consist of covenants on the part of Grantor to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that the development rights, perpetual conservation easement restrictions, and public access easement shall constitute a servitude upon and shall run with the land.

I. Purposes of this Grant and Management Plan

A. Statement of Purposes

1. Grantor and Grantees acknowledge the objective of ensuring the availability of the Protected Property for public use and enjoyment, including, but not limited to, educational, recreational and other appropriate community activities and, to that end, the purposes of this Grant (hereinafter referred to as "the Purposes of this Grant") are as follows:
 - a. To conserve productive agricultural land and forestland, wildlife habitats, non-commercial recreational opportunities and activities, and other natural resource, open space and scenic values of the Protected Property for present and future generations;
 - b. To conserve biological diversity, natural communities, riparian buffers, wetlands, soil productivity, water quality and native flora and fauna on the Protected Property and the ecological processes that sustain these natural resource values as they exist on the date of this instrument and as they may evolve in the future;
 - c. To provide for non-commercial recreational, educational and other appropriate community uses on the Protected Property;
 - d. To conserve open space values, and scenic resources associated with the Protected Property for present and future generations; and
 - e. To require that management of the Protected Property be guided by a public management planning process.
2. Recognizing that conservation of productive forestland is included in the purposes of this Grant, and that both the resource values of the Protected Property and responsible forest management standards will evolve over time, the forest management objectives of this Grant are to:

- a. Manage forest stands for long rotations which maximize the opportunity for the production of maple sap and/or for harvesting, sustained over time, high quality sawlogs while maintaining a healthy and biologically diverse forest. Grantor and Grantees acknowledge that site limitations, biological factors and public uses may preclude the production of high quality sawlogs, and further that the production of a variety of forest products can be consistent with the goal of producing high quality sawlogs and/or maple sap.
 - b. Conduct all sugaring and/or forest management and harvesting activities (including the establishment, maintenance, and reclamation of log landings and skid roads) using the best available management practices in order to prevent soil erosion and to protect water quality.
3. To ensure that the Protected Property will be owned in perpetuity by the State of Vermont, a municipality, or other qualified organization, as defined in Chapter 34 or Chapter 155, Title 10 V.S.A.; or such other entity approved by the Grantees.
4. These purposes will be advanced by conserving the Protected Property because it possesses the following attributes:
- a) Streams, including headwater tributaries of Meadow Brook and Halls Brook that, with wooded buffers and natural flow, provide an array of ecological benefits including maintaining water quality and providing corridors for species movement;
 - b) A high-quality vernal pool, a wetland that provides critical breeding habitat for forest amphibians;
 - c) Additional wetland, upland, and riparian habitat for wildlife; and
 - d) A variety of open, shrub, and forested wetland natural communities, including Hemlock-Balsam Fir-Black Ash Seepage Swamp, Red Maple-Black Ash Swamp, Alder Swamp, Red Spruce-Cinnamon Fern Swamp, seeps, and additional areas of wetland occurring both as large complexes and as isolated patches.

Grantor and Grantees recognize the Purposes of this Grant and share the common goal of conserving these values of the Protected Property by the conveyance of conservation restrictions, development rights and public access easement to prevent the use or development of the Protected Property for any purpose or in any manner which would conflict with the Purposes of this Grant. Grantees accept such conservation restrictions, development rights and public access easement in order to conserve these values for present and future generations.

B. Management Plans.

Grantor will, from time-to-time develop comprehensive management plans, including updates, revisions and amendments, for the Protected Property (hereinafter "Management Plans"). The Management Plans shall:

1. Provide for the use and management of the Protected Property in a fashion which is consistent with and advances the Purposes of this Grant; and
2. At a minimum, the Management Plans shall include the provisions required under this Grant, identify actions necessary to accomplish the following and shall appropriately balance all the resource attributes of and human uses for the Protected Property:
 - a. identify the objectives for the community forest;
 - b. identify and address the management needs of the recreational uses that may require special or more intensive management focus;
 - c. identify and develop strategies for minimizing recreational use conflicts;
 - d. provide for public access, including without limitation access to the top of Tucker Mountain, and meaningful recreational links to private and public lands;
 - e. include a forest management plan approved by Grantees in accordance with Section 1(C), below, if the Grantor proposes to harvest timber or commercial non-timber forest products;
 - f. provide for maintenance of the open meadows at the top of Tucker Mountain and the historic views from the mountaintop;
 - g. provide a plan for road, sign, trail and sanitary facility use that has minimal impact on water quality and soil, plant, wildlife and aquatic habitat resources and historic and cultural features;
 - h. provide for the sustainable use of fish and wildlife resources;

- i. provide for the identification and protection of natural communities, plant, wildlife and aquatic habitat and other ecologically sensitive or important areas;
- j. provide for use by local school outdoor educational and resource management programs;
- k. provide for the construction and use of any minor recreational structures and any other structures permitted under this Grant; and
- l. provide, as necessary, for any proposed use of the Vernal Pool Ecological and Wetland Protection Zones consistent with Section(s) V and VI, below.

3. Otherwise be consistent with this Grant.

Prior to the final adoption of each Management Plan, including updates, revisions and amendments, Grantor shall, in consultation with Grantees: (a) secure appropriate public input from the general public, (b) develop the Management Plans in a timely and responsive manner, and (c) provide Grantees with a draft of each such Management Plan for its review and approval prior to adoption as well as a copy of each final adopted Management Plan. Grantees' approval of the Management Plans shall not be unreasonably withheld or conditioned if such plans are consistent with the terms of this Grant.

C. Forest Management Plan.

Grantor shall not harvest timber, wood products, commercial non-timber forest products, or establish and operate a maple sugaring operation without first developing a forest management plan. Said forest management plan and any updates, amendments or other changes thereto (collectively "the Forestry Plan") shall be submitted to Grantees for their approval prior to any forest management activity. Grantees' approval of the Forestry Plan shall not be unreasonably withheld or conditioned, if the Forestry Plan has been approved by a professional forester and if the Forestry Plan is consistent with the Purposes of this Grant. Grantees may rely upon the advice and recommendations of such foresters, wildlife experts, conservation biologists or other experts as Grantees may select to determine whether the Forestry Plan is consistent with the Purposes of this Grant. The Forestry Plan shall be consistent with the Purposes of this Grant and shall include at least the following elements (except that those elements of the Forestry Plan which do not change need not be re-submitted in updates or amendments to the Forestry Plan):

1. Grantor's forest management objectives;
2. An appropriately scaled, accurate map indicating such items as forest stands, streams and wetlands, and major access routes (truck roads, landings and major skid trails);
3. Forest stand ("treatment unit") descriptions (forest types, stocking levels before and after harvesting, soils, topography, stand quality, site class, insect and disease occurrence, previous management history, and prescribed silvicultural treatment including harvest schedules);
4. Description of any sugaring operation, including how management will account for impacts on species diversity and ecosystem health, and impacts on wildlife movement and public access;
5. Plant and wildlife considerations (identification of known significant habitats and management recommendations);
6. Aesthetic and recreational considerations (impact on viewsheds from public roads, trails and places);
7. Historic and cultural resource considerations (identification of known resources and associated management recommendations);
8. Management practices to be applied within riparian buffers, established in Section III(5) below, which may include but are not limited to shading, accumulation of coarse woody debris, harvest timing, water crossings and erosion controls;
9. Management practices to be applied within the Vernal Pool EPZ, established in Section V, which may include but are not limited to shading, accumulation of coarse woody debris, harvest timing, water crossings and erosion controls; and
10. If applicable, management practices to be applied within the WPZ in accordance with the goals and requirements of Section VI below.

The Forestry Plan shall be updated at least once every ten (10) years (or at such other intervals as Grantor and Grantees may mutually agree) if Grantor intends to harvest timber or other wood products. Amendments to the Forestry Plan shall be required in the event that Grantor proposes a treatment not included in the Forestry Plan, but no such amendment shall be required for any change in timing or sequence of treatments if such change does not vary more than five years from the prescription schedule set forth in the Forestry Plan as approved by Grantees. In the

event that any treatment unit is substantially damaged by natural causes such as insect infestation, disease, ice, fire, or wind, Grantor may elect to conduct an alternative treatment in which event Grantor shall submit an amendment to the Forestry Plan for Grantees' approval prior to conducting any alternative treatment.

Disapproval by Grantees of a Forestry Plan proposing a heavy cut (as defined below) shall not be deemed unreasonable. Grantees, however, may approve a Forestry Plan or an amendment thereto proposing a heavy cut in its discretion if consistent with the Purposes of this Grant, including for the following purposes:

1. To release an established understory;
2. To permit the planting of different species of trees or the establishment or re-establishment of a field, orchard, or pasture;
3. Wildlife management; or
4. To promote natural regeneration.

"Heavy cut" shall mean the harvesting of wood products below the "C-Line" or minimum stocking level on the Protected Property as determined by applying the protocol set forth in the current U.S. Department of Agriculture, Forest Service Silvicultural Guidelines for the Northeast or by applying a similar, successor standard approved by Grantees.

II. Restricted Uses of the Protected Property

1. The Protected Property shall be used for educational, forestry, non-commercial recreation, habitat conservation, natural area, and open space purposes only, except as otherwise specifically permitted under this Grant. Agricultural activities are permitted on that portion of the Protected Property in an existing cleared state. Agricultural activities on the forested portion of the Protected Property may occur only with the prior written approval of the Grantees which may be given, denied or conditioned in Grantees' sole discretion. No residential, commercial, industrial or mining activities shall be permitted, except as specifically permitted under this Grant. No buildings, structures, or appurtenant facility or improvements shall be constructed, created, erected or moved onto the Protected Property, except as specifically permitted in both Section III below and the Management Plans.

2. No rights-of-way, easements of ingress or egress, driveways, roads, or utility lines or easements shall be constructed, developed or maintained into, on, over, under, or across the Protected Property without the prior written permission of Grantees, except as otherwise specifically permitted under this Grant. Grantees may grant such permission (with or without conditions) if in their reasonable discretion they determine that any such improvement is consistent with the Purposes of this Grant. Grantor shall not convey use restrictions or other easements on, over, under, or across the Protected Property without the prior written permission of the Grantees.

3. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property; provided, however, that Grantor may erect and maintain reasonable signs including but not limited to signs indicating that the Protected Property was conserved with the assistance of Grantees and the Leach Family, the name of the Protected Property and its ownership by Grantor, boundary markers, trail signs, directional signs, memorial plaques, informational and interpretive signs, and signs limiting access or use (subject to the limitations of Section IV, below). Grantees may erect and maintain signs designating the Protected Property as land under the protection of Grantees, with the prior written permission of Grantor.

4. The placement, collection or storage of trash, human, hazardous or toxic waste, or any other unsightly, harmful or offensive material on the Protected Property shall not be permitted except at such locations, if any, and in such a manner as shall be approved in advance in writing by Grantees and shall be consistent with the Grant and the Management Plans. The temporary storage of trash generated on the Protected Property in receptacles for periodic off-site disposal, shall be permitted without such prior written approval.

5. There shall be no disturbance of the surface, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except as may be reasonably necessary to carry out the uses permitted on the Protected Property under this Grant. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

6. Grantor shall not give, grant, sell, convey, subdivide, partition, convey in separate

parcels, transfer, mortgage, pledge, lease or otherwise encumber the Protected Property without the prior written approval of Grantees which approval may be granted, denied or conditioned - including the condition that the Protected Property be sold for only nominal consideration - in the Grantees' sole discretion.

7. There shall be no operation of motor vehicles on the Protected Property except for uses specifically reserved in Section III below. However, Grantor may permit motorized personal assistive mobility devices for use by persons with mobility disabilities on the Protected Property if consistent with the Purposes of this Grant, and as may be required by 42 U.S.C. §35.137.

8. No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of Grantees, is not or is not likely to be consistent with the Purposes of this Grant. Grantor and Grantees acknowledge that, in view of the perpetual nature of this Grant, they are unable to foresee all potential future land uses, future technologies, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Grant. Grantees, therefore, in their sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Grant, or (b) alterations in existing uses or structures, are consistent with the Purposes of this Grant.

III. Permitted Uses of the Protected Property.

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Protected Property:

1. The right to use the Protected Property for all types of non-commercial, non-motorized recreational purposes (including, but not limited to, bird-watching, cross-country skiing, fishing, hiking, hunting, snowshoeing, trapping, picnicking, walking and wildlife observation) consistent with the Purposes of this Grant and the Management Plan(s). Use of the Protected Property for snowmobiling, and for non-motorized, mechanized recreation such as mountain biking and by animals capable of transporting humans (including, but not limited to, horses) may be permitted in the discretion of Grantor if such uses are regulated in the Management Plan(s) and are consistent with the Purposes of this Grant and are consistent with Sections IV, V and VI below.

2. The right to use and maintain existing unforested areas for agricultural use and to establish, maintain and use fields, orchards and pastures for agricultural uses approved under Section II(1) above, recreational, scenic or open space purposes and/or for the purpose of maintaining or enhancing wildlife habitat, plant habitat or scenic vistas or values on the Protected Property, provided that the initial forest clearing activity required to establish such fields, orchards, pastures, wildlife habitats, plant habitats, and/or scenic vistas is only upon the prior written approval of Grantees, which they may grant—with or without conditions—if they determine, in their sole discretion, that any such use would be consistent with the Purposes of this Grant, is otherwise consistent with the provisions of this Grant, is a component of the Management Plan(s), and is consistent with Sections V and VI below.

3. The right to perform forest management activities, including maple-sugaring, the harvest of timber, other wood products and commercial non-timber forest products, provided that:

- a) all such activities are conducted in accordance with an approved Forestry Plan meeting the requirements of Section I above;
- b) all such activities are conducted under the supervision of a professional forester holding at least a Bachelor of Science degree in forestry from an educational institution with a forestry curriculum accredited by the Society of American Foresters, or a forester or other land manager whose education, experience and qualifications are otherwise approved in advance by Grantees (hereinafter "Professional Forester"); and
- c) any maple sugaring operations shall meet or exceed the standards outlined in Sugarbush Management Standards and Tapping Guidelines for Forestland in Use Value Appraisal (adopted in 2014) or successor guidelines as determined by the Grantees.

During any road construction, maintenance or harvesting and skidding of forest products, or activities associated with sugarbush management, Grantor shall at a minimum employ the applicable practices recommended in the publication "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont," a Vermont Department of Forests, Parks and Recreation publication dated October 22, 2016 (hereafter "AMPs"), or such successor standard

approved by Grantee.

Nothing in this clause shall be interpreted to require Grantor to harvest a treatment unit (as defined in Section I(C) above), but only to require that any such harvest be conducted in accordance with the Forest Management Plan or the Amended Forest Management Plan should Grantor elect to harvest.

4. The right to construct, maintain, repair, renovate, replace, enlarge, rebuild, and use sugaring buildings, together with necessary access drives and utilities exclusively for agricultural, silvicultural and educational uses normally associated with a sugaring operation, on the Protected Property; provided, however, that (a) the structures are used exclusively for maple sugaring using maple sap collected on the Protected Property and related educational purposes, and (b) any new construction, other than normal maintenance and repair, has been approved in writing in advance by Grantees. Grantees' approval may include designation of a "complex" (meaning an area or areas of the Protected Property within which certain structures are or shall be grouped together) surrounding the structure and shall not otherwise be unreasonably withheld or conditioned; provided, however, that the structure or other improvement is located in a manner which is consistent with the Purposes of this Grant and is consistent with Sections V and VI below. Grantor shall not deem unreasonable a condition by Grantees that certain structures must be located within a complex which may be designated in the future as provided in this Section III.

5. The right to utilize and maintain water sources, courses, and bodies within the Protected Property for uses otherwise permitted hereunder, provided that Grantor does not unnecessarily disturb the natural course of the surface water drainage and runoff flowing over the Protected Property. The construction of ponds or reservoirs is prohibited. In addition, those areas within the forested or naturally vegetated portions of the Protected Property lying within fifty feet (50') landward of the top of the banks of any "stream" as defined by the AMPs shall be designated as riparian buffers and the following goals and restrictions shall apply:

The principal goal for management within the riparian buffers is to promote an array of ecological benefits, including but not limited to protecting aquatic and wetland plants and animals from disturbance; maintaining water quality; providing important terrestrial and aquatic plant and animal habitat; and providing organic matter, nutrients, shade, and large diameter coarse woody debris for the benefit of wetland, riparian, and aquatic systems.

Any management or use of the riparian buffers shall be conducted in a manner designed to protect soil integrity and minimize erosion, shall incorporate up-to-date ecological knowledge and management practices, and shall be consistent with the principal goal above.

6. The right to maintain, repair, improve and replace existing recreational trails, together with the right to clear, construct, repair, improve, maintain and replace new trails, provided that the location, use and construction of such new trails are consistent with the Purposes of this Grant, Sections V and VI below, and are provided for in the Management Plan(s).

7. The right to conduct periodic, temporary community and public entertainment events on the Protected Property, including concerts, fairs and celebrations, together with the right to erect tents and other temporary structures for such events; provided that such events shall not result in the clearing of any forested areas and provided further that such events are consistent with the Purposes of this Grant and the Management Plan(s).

8. The right to construct, maintain, repair and use unpaved parking lot(s) on the Protected Property, including associated access drives and utilities, together with the right to construct improvements normally associated with a parking lot. Grantor shall first obtain the prior written approval of Grantees for the location and size of such unpaved parking lots on the Protected Property, which approval shall not be unreasonably withheld nor conditioned, provided that such location and use shall be consistent with the Management Plan(s) and the Purposes of this Grant.

9. The right to construct, maintain, repair and replace permanent or temporary structures, drives and utilities reasonably necessary to support the uses permitted by this Grant (including modest structures to support public outdoor recreation, public natural resource management and/or public outdoor education); provided that such structures comply with the requirements of this Section III(9) and the number and location of such structures, drives and utilities are consistent with the Purposes of this Grant, Sections IV, V and VI below, and the Management Plan(s).

10. The right to charge members of the public reasonable fees for admission to and use of the Protected Property, provided that such fees are collected only for community and public recreation, education or entertainment events on the Protected Property (including, but not limited to, children's activities, concerts, fairs and celebrations) or such fees as are reasonably necessary to support Grantor's management of the Protected Property. Notwithstanding the foregoing, members of the public may not be charged a fee to walk on the Protected Property. The right to charge organizations reasonable fees for recreational use of a portion of the Protected Property provided that such use does not unreasonably interfere with the access of the general public to the Protected Property. Fees shall not be based on place of residency. All fees charged for admission to or use of the Protected Property shall be consistent with the Purposes of this Grant, especially that of public access provided in Section IV below, and shall be provided for in the Management Plan.

11. The right to conduct and authorize temporary commercial and non-commercial uses of the Protected Property, provided that such uses (i) do not unreasonably interfere with the access of the general public to the Protected Property, (ii) do not materially detract from the Purposes of this Grant, and (iii) are described in an approved Management Plan described in Section I(B) of this Grant.

12. The right to construct a gravel road to the top of Tucker Mountain from Tucker Mountain Road to provide motorized vehicle access to the top of Tucker Mountain; provided, that the construction, location, design, use and maintenance of the road is included in the Management Plan. For purposes of this Section III(12), the term "motorized vehicle" shall mean passenger cars and passenger trucks registered for highway use.

13. The right to designate corridor(s) for all-terrain vehicle use on the Protected Property; provided, that the construction, location, design, use and maintenance of such corridor(s) for all-terrain vehicle use is included in the Management Plan(s). In addition, the right to use all-terrain vehicles on such corridor(s); provided that no undue adverse impacts occur on the Protected Property because of such use (including but not limited to rutting, erosion, water quality degradation, and impacts to sensitive natural resources and/or the attributes listed in Section I, above).

14. No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of Grantees, is or may possess the potential to become inconsistent with the Purposes of this Grant.

IV. Public Access.

Grantor covenants and agrees that the Protected Property shall be available to the general public for all types of non-commercial, non-motorized, non-mechanized dispersed recreational and educational purposes (including, but not limited to, bird-watching, cross-country skiing, fishing, hiking, hunting, snowshoeing, swimming, trapping, picnicking, walking and wildlife observation) consistent with the Purposes of this Grant. Notwithstanding the foregoing, Grantor may limit or restrict public access to the Protected Property to assure compliance with the requirements of this Grant, to protect natural habitats, or to protect the public health or safety (including, but not limited to, the right to permit, regulate or prohibit fishing, hunting and trapping).

V. Vernal Pool Ecological Protection Zone.

The Vernal Pool Ecological Protection Zone consists of one (1) vernal pool and the area around it which is described below and generally depicted as "EPZ Primary Zone" and "EPZ Secondary Zone" on the Tucker Mountain Town Forest Conservation Plan (together hereinafter referred to as "the EPZ"). The purpose and goal of the EPZ is to provide and maintain high quality amphibian habitat, including critical breeding habitat ("the Goals"), by promoting and maintaining high levels of shade and coarse woody debris. The Grantees, in their sole discretion, may release from the provisions of this Section V all or a portion of the EPZ if the Grantees determine that it ceases to function in a way that meets the Goals, or if the Grantees determine that new scientific knowledge indicates that the limitations and restrictions of this Section V are no longer necessary to meet the Goals.

The EPZ Primary Zone shall be subject to the following limitations and restrictions which shall supersede the provisions of Sections II, III and I(C) of this Grant to the extent these limitations and restrictions are inconsistent with those Sections:

EPZ Primary Zone: The vernal pool and the area within its surrounding 100-foot radius as measured from the pool's edges is the EPZ Primary Zone. There shall be no agricultural activity

within the EPZ Primary Zone other than the collection of maple sap for maple sugaring operations which may be approved or conditioned by Grantees in their sole discretion. No new structures, land disturbance or improvements, with the exception of pedestrian trails as provided for in Section III(6) above, shall be permitted within the EPZ Primary Zone. Within the EPZ Primary Zone there shall be no removal of standing timber or downed wood or disturbance to the pool's hydrology. The only forest management activities which may take place within the EPZ Primary Zone, after first receiving the written approval of the Grantees, which may be granted, conditioned or denied in Grantees' sole discretion, shall be the control of exotic species and activities that enhance amphibian habitat. Any existing structures, roads and log landings may remain but only in their current locations and shall not be altered, expanded or improved beyond their current condition, but relocation may be permitted with the prior written approval of Grantees, which approval may be granted, conditioned or denied in Grantees' sole discretion. New roads for timber harvest may be approved within the EPZ Primary Zone by the Grantees if in their sole discretion they determine that there is no other location that can practically meet the same purpose.

In the event a total prohibition against harvesting and limitations upon forest management activities within the EPZ Primary Zone affects the eligibility of the EPZ Primary Zone for enrollment in the State of Vermont's Use Value Appraisal Program, or similar successor program, then those foregoing restrictions which affect such eligibility shall not apply and, instead, only such minimal harvesting and other forest management activities as are required to maintain such eligibility shall be permitted within the EPZ Primary Zone.

The EPZ Secondary Zone shall be subject to the following additional element of the forest management plan required under Section I(C) of this Grant:

EPZ Secondary Zone: The EPZ Secondary Zone is the forested area lying within an additional 500-foot zone outward from the EPZ Primary Zone, as depicted on the Tucker Mountain Town Forest Conservation Plan. Within the EPZ Secondary Zone firewood may be harvested as permitted under Section III(3), above. Other timber harvesting is permitted but amphibian habitat needs, such as coarse woody debris and shade, shall be addressed in the preparation of forest management plans which shall explicitly state what prescriptions have been imposed to protect and enhance amphibian habitat.

VI. Wetland Protection Zone.

The Protected Property includes certain lands containing and buffering wetlands hereby made subject to special protections to protect the water quality and the ecological processes associated with such wetlands. Such wetlands are herein designated as the "Wetland Protection Zone" or "WPZ". The WPZ is more particularly described as a variety of open, shrub, and forested wetland natural communities, and is generally depicted as "WPZ" on the Tucker Mountain Town Forest Conservation Plan. The boundaries of the WPZ may be changed from time to time by mutual agreement of Grantor and Grantees, as established by and depicted on a new conservation plan signed by Grantor and Grantees and maintained on file with Grantee VLT.

Within the WPZ, the goals, prescriptions, and restrictions of this Section VI are in addition to the provisions of Sections II, III and I(C) of this Grant, and where inconsistent, the provisions of this Section VI shall control.

Within the WPZ the following shall apply:

1. Protection or restoration of the ecological functions of the wetland natural communities, as well as the natural communities that naturally develop in the future in the WPZ, and the ecological processes that sustain them, shall be Grantor's and Grantees' highest priority.
2. All management activities, including without limitation forest management and ecological management, shall focus on the goals of a) maintaining or restoring soil integrity, natural hydrology, and water quality, and b) maintaining the natural structure and species composition of the natural communities present or communities that may develop naturally over time, informed by the best current ecological science.
3. There shall be no agricultural activities (including without limitation the grazing or pasturing of animals), except as may be approved by Grantees in their sole discretion.
4. All forest management activities shall be conducted pursuant to a forest management

plan that is consistent with the Purposes of this Grant and this Section VI. Without limiting the foregoing, the installation of new roads and trails shall require Grantees' prior written approval.

In the context of acting under this Section VI, Grantor and Grantees may confer about what constitutes the best available ecological science; provided that, Grantees' interpretation thereof shall control.

VII. Enforcement of the Restrictions.

Grantees shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantees may make periodic inspection of all or any portion of the Protected Property and for such inspection and enforcement purposes, Grantees shall have the right of reasonable access to the Protected Property. In the event that Grantees becomes aware of an event or circumstance of non-compliance with the terms and conditions herein set forth, Grantees shall give notice to Grantor of such event or circumstance of non-compliance by hand or by certified mail, return receipt requested, and demand corrective action by Grantor sufficient to abate such event or circumstance of non-compliance and restore the Protected Property to its previous condition. In the event there has been an event or circumstance of non-compliance which is corrected through negotiation and voluntary compliance but which has caused Grantees to incur extraordinary costs, including staff time, in investigating the non-compliance and securing its correction, Grantor shall at Grantees' request reimburse Grantees all such costs incurred in investigating the non-compliance and in securing its correction.

Failure by Grantor to cause discontinuance, abatement or such other corrective action as may be demanded by Grantees within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Grantees to bring an action in a court of competent jurisdiction to enforce this Grant and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Grantees to corrective action on the Protected Property, if necessary. If the court determines that Grantor has failed to comply with this Grant, Grantor shall reimburse Grantees for any reasonable costs of enforcement, including court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court. In the event that one of the Grantees initiates litigation and the court determines that Grantor has not failed to comply with this Grant and that such Grantee has initiated litigation without reasonable cause or in bad faith, then such Grantee shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorneys' fees. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss and damage to the Protected Property and accordingly entitle Grantees to such equitable relief, including but not limited to injunctive relief and ex parte relief, as the Court deems just.

The remedies described herein are in addition to, and not in limitation of, any other remedies available to Grantees at law, in equity, or through administrative proceedings. No delay or omission by Grantees in the exercise of any right or remedy upon any breach of Grantor shall impair Grantees' rights or remedies or be construed as a waiver. Nothing in this enforcement section shall be construed as imposing a liability upon a prior owner of the Protected Property when the event or circumstance of non-compliance occurred after said prior owner's ownership or control of the Protected Property has terminated.

VIII. Miscellaneous Provisions.

1. Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantees before commencing an activity or act, and where Grantees have designated in writing one of the other Grantees herein or another organization or entity which shall have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of Grantees. Grantor shall reimburse Grantees or Grantees' designee for all extraordinary costs, including staff time, incurred in reviewing the proposed action requiring Grantees' approval; but not to include those costs which are expected and routine in scope. When Grantees have authorized a proposed action requiring approval under this Grant, Grantees shall, upon request, provide Grantor with a written certification in recordable form memorializing said approval.

2. While title is herein conveyed to Grantees as tenants in common, the rights and interests described in this Grant, including enforcement of the conservation easement and restrictions, may be exercised by Grantees collectively, or by any single Grantee individually, provided that court enforcement action by a single Grantee shall foreclose action on the same issue(s) by the other Grantees who shall be bound by the final determination.

3. It is hereby agreed that the construction of any buildings, structures or improvements, or any use of the land otherwise permitted under this Grant, shall be in accordance with all applicable ordinances, statutes and regulations, including without limitation those of the Town of Newbury and the State of Vermont.
4. Grantees shall transfer the development rights, public access easement, and conservation easement and restrictions conveyed by Grantor herein only to a State agency, municipality, or qualified organization, as defined in Chapter 34 or Chapter 155 Title 10 V.S.A., in accordance with the laws of the State of Vermont and the regulations established by the Internal Revenue Service governing such transfers.
5. In the event the development rights or conservation restrictions conveyed to Grantees herein are extinguished by eminent domain or other legal proceedings, Grantees shall be entitled to any proceeds which pertain to the extinguishment of Grantees' rights and interests. Any proceeds from extinguishment shall be allocated between Grantor and Grantees using a ratio based upon the relative value of the development rights and conservation restrictions, and the value of the fee interest in the Protected Property, as determined by a qualified appraisal obtained at the direction of either Grantor or Grantees in the year of extinguishment. Grantees shall use any such proceeds to preserve undeveloped and open space land in order to protect the aesthetic, cultural, educational, scientific, and natural resources of the state through non-regulatory means.
6. Without limiting the restrictions contained in Section II(6) of this Grant, in any deed or lease conveying an interest in all or part of the Protected Property, Grantor shall make reference to the conservation easement, restrictions, and obligations described herein and shall indicate that this easement and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor shall also notify Grantees of the name(s) and address(es) of Grantor's successor(s) in interest.
7. The term "Grantor" shall include the successors and assigns of the original Grantor, the Town of Newbury. The term "Grantees" shall include the respective successors and assigns of the original Grantees, Vermont Land Trust, Inc. and Vermont Housing and Conservation Board.
8. Any signs erected on the Protected Property which mention funding sources shall include the Vermont Housing and Conservation Board and the Vermont Land Trust, Inc. and the family of Philip and Virginia Leach.
9. Grantor warrants that Grantor has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Protected Property.
10. Grantor shall hold harmless, indemnify and defend Grantees against any liabilities, claims and expenses, including reasonable attorney's fees to which Grantees may be subjected, including, but not limited to, those arising from any solid or hazardous waste/hazardous substance release or disposal, or hazardous waste/hazardous substance cleanup laws or the actions, or inactions of Grantor as owner or operator of the premises, or those of Grantor's agents.
11. This Grant shall be governed by and construed in accordance with the laws of the State of Vermont. In the event that any provision or clause in this Grant conflicts with applicable law, such conflict shall not affect other provisions hereof which can be given effect without the conflicting provision. To this end the provisions of this Grant are declared to be severable. Invalidation of any provision hereof shall not affect any other provision of this Grant.
12. Grantor and Grantees recognize that rare and unexpected circumstances could arise that justify amendment of certain of the terms, covenants or restrictions contained in this Grant. To this end, this Grant may be amended only by mutual agreement of Grantor and Grantees; provided that Grantees determine in their sole discretion that such amendment furthers or does not materially detract from the Purposes of this Grant. Amendments shall be in writing, signed by both Grantor and Grantees, and shall be recorded in the Town of Newbury Land Records. Notwithstanding the foregoing, Grantor and Grantees have no right or power to agree to any amendment that would limit the term of the Grant, or adversely affect the qualification of this Grant or the status of Grantees under applicable laws, including without limitation Title 10 V.S.A. Chapters 34 and 155, Section 170(h) and 501(c)(3) of the Internal Revenue Code, as amended, and regulations issued pursuant thereto.
13. It is further agreed that the Protected Property is accurately depicted and described

in both the Tucker Mountain Town Forest Conservation Plan and a Baseline Documentation Report (“BDR”) signed by the original Grantor on or about the date of this Grant and held by Grantee. Grantee may use the Tucker Mountain Town Forest Conservation Plan or BDR in enforcing this Grant, but is not limited in its use of the Tucker Mountain Town Forest Conservation Plan and BDR to show a change of conditions.

INVALIDATION of any provision hereof shall not affect any other provision of this Grant.

TO HAVE AND TO HOLD said granted development rights, conservation easement and restrictions, and public access easement, with all the privileges and appurtenances thereof, to the said Grantees, VERMONT HOUSING AND CONSERVATION BOARD, and VERMONT LAND TRUST, INC., their respective successors and assigns, to their own use and behoof forever, and the said Grantor, the TOWN OF NEWBURY, on behalf of itself and its successors and assigns, does covenant with the said Grantees, their successors and assigns, that until the ensembling of these presents, it is the sole owner of the premises and has good right and title to convey the same in the manner aforesaid, that the premises are free from every encumbrance, except those of record, not intending hereby to reinstate any interest or right terminated or superseded by this Grant, operation of law, abandonment of 27 V.S.A. Ch. 5, Subch. 7; and it hereby engages to warrant and defend the same against all lawful claims whatever, except as aforesaid.

We, Alma Roystan, Steve Cole and Brian Emerson, selectmen and duly authorized agents of the Town of Newbury, have executed this Grant on this 12th day of December, 2018.

TOWN OF NEWBURY

Alma Roystan
Alma Roystan, Chair
Town of Newbury Selectboard

Steve Cole
Steve Cole
Town of Newbury Selectboard

Brian Emerson
Brian Emerson
Town of Newbury Selectboard

STATE OF VERMONT
COUNTY OF Orange, SS.

At Newbury, Vermont, on this 12 day of December 2018, personally appeared Alma Roystan, Steve Cole and Brian Emerson, duly authorized agents of the Town of Newbury, and they acknowledged this instrument, by them sealed and subscribed, to be their free act and deed, and the free act and deed of the Town of Newbury.

Before me,

Nickolas J. American
Notary Public
My Commission Expires: 02/10/2019

Approved by the VERMONT LAND TRUST, INC.:

12/12/2018
Date

By: J. E. Cole
Its Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Orange, SS.

At Newbury, Vermont, on this 12 day of December-2018, personally appeared Julie F. Curtin, duly authorized agent of the Vermont Land Trust, Inc., and she acknowledged this instrument, by her sealed and subscribed, to be her free act and deed, and the free act and deed of the Vermont Land Trust, Inc.

Before me,

Melinda Johnson
Notary Public
My Commission Expires: 02/10/2019

Approved by the VERMONT HOUSING AND CONSERVATION BOARD:

12/11/18
Date

By: Lauren M. [Signature]
Its Duly Authorized Agent

STATE OF VERMONT
COUNTY OF Washington, SS.

At Montpelier, Vermont, on this 11th day of December-2018, personally appeared Lawrence W. Miles, duly authorized agent of the Vermont Housing and Conservation Board, and he/she acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed, and the free act and deed of the Vermont Housing and Conservation Board.

Before me,

Elizabeth M. [Signature]
Notary Public
My Commission Expires: 02/10/2019

Being all and the same lands and premises
 conveyed by Warranty Deed from VLT to Grantor
 on even date
 here with, being
 described therein as

SCHEDULE A
 PROTECTED PROPERTY

Being all and the same lands and premises, including buildings, conveyed to ^{VLT} Grantor by:

1. Warranty Deed of Edwin F. Leach, II, Suzanne L. Charity, Christina N.L. Clark, Lucinda Anne Leach and Joshua V. Moody and Alexia C.M. Vondrak as Successor Co-Trustees of the First Amendment to and Complete Restatement of the Survivor's Trust of the Thomas and Robin Moody Family Trust dated March 23, 2016, recorded on September 4, 2018 in Book 172, Page 104 of the Newbury Land Records.
2. Warranty Deed of Edwin Franics Leach, II and Deborah W. Leach, recorded on September 4, 2018 in Book 172, Page 116 of the Newbury Land Records

Meaning and intending to include in this description of the Protected Property all of the land with the buildings and improvements thereon lying on both sides of Town Highway #51 (also known as Tucker Mountain Road), in the Town of Newbury, Vermont, and generally described as containing 626 acres, more or less.

NOTICE: Unless otherwise expressly indicated, the descriptions in this Schedule A and in any subsequent Schedules are not based on a survey or subdivision plat. The Grantor and Grantees have used their best efforts to depict the approximate boundaries of the Protected Property and any excluded parcels, complexes or special treatment areas on a plan entitled "Vermont Land Trust – Tucker Mountain Town Forest Property, Town of Newbury, Orange Co., VT, December 2018" signed by the Grantor and Grantee VLT (referred to throughout this Grant and its Schedules as "Tucker Mountain Town Forest Conservation Plan"). The Tucker Mountain Town Forest Conservation Plan is based upon Vermont Base Map digital orthophotos and other information available to Grantee at the time of the Plan's preparation. Any metes and bounds descriptions included in the Schedules herein are approximate only. They are computer generated and are not the result of field measurements or extensive title research. The Tucker Mountain Town Forest Conservation Plan and any metes and bounds descriptions herein are intended solely for the use of the Grantor and Grantees in establishing the approximate location of the areas described and for administering and interpreting the terms and conditions of this Grant. No monuments have been placed on the ground. The Tucker Mountain Town Forest Conservation Plan is kept by Grantee VLT in its Stewardship Office. **The Tucker Mountain Town Forest Conservation Plan is not a survey and must not be used as a survey or for any conveyance or subdivision of the land depicted thereon.**

Grantor and Grantees do not intend to imply any limitation on the area of land included in this description, should a survey determine that additional land is also encumbered by the Grant. If, in the future, the Grantor or Grantees shall prepare a survey of the Protected Property, of any portion thereof, or of any excluded lands, and that survey is accepted by the other party or confirmed by a court, the descriptions in the survey shall control.

Reference may be made to the above described deed and record, and to the deeds and records referred to therein, in further aid of this description.