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472 Main Street, Acton, MA
Middlesex South Registry of Deeds at Book 56002, Page 381

CONSERVATION RESTRICTION

I. Grantor Clause:

The Town of Acton, having an address at 472 Main Street, Acton, Massachusetts 01720, and it's successors and assigns ("Grantor"), acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the General Laws, hereby grants to the Acton Conservation Trust, a Massachusetts non-profit land trust having an address of P.O. Box 658, Acton, Massachusetts 01720, and Sudbury Valley Trustees, Inc., a Massachusetts non-profit corporation having an address of 18 Wolbach Road, Sudbury, Massachusetts 01776 (collectively, the "Grantees"), in perpetuity and exclusively for conservation purposes, for consideration of one dollar ($1), the following described Conservation Restriction on a parcel of land located at 2 Stow Street in the Town of Acton, Massachusetts, constituting approximately 8.503 acres, said parcel being shown as Conservation Restriction area on a plan entitled "Plan of Land in Acton, Massachusetts (Middlesex County)". Initially prepared by Stamski & McNary, Inc., for the Town of Acton dated November 30, 2010, recorded with the Middlesex South Registry of Deeds as Plan No. 858 of 2010, it was revised as a Progress Print, dated May 24, 2013, attached as **Exhibit A**, to depict the Conservation Restriction area (the "Premises"). Said parcel is a portion of Parcel 62 on Acton Town Atlas Map H-2A. For Grantor's title, see the Order of Taking recorded with the Middlesex South Registry of Deeds at Book 56002, Page 378 and the Confirmatory Deed recorded with the Middlesex South Registry of Deeds at Book 56002, Page 381 on December 7, 2010.

Grantor: Town of Acton

Grantees: Sudbury Valley Trustees, Inc. and Acton Conservation Trust

Address of property: 2 Stow Street, Acton, Massachusetts

Title Reference: Middlesex South Registry of Deeds at Book 56002, Page 381

II. Purposes:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained as agricultural property and/or in a natural, scenic and underdeveloped condition in perpetuity for conservation purposes and passive recreation purposes, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values. These values, all of which are in the public interest, include the following:

a) The preservation of the Premises for agricultural use;

b) The preservation of the Premises as open space and access to trails;

c) The preservation of the ecological values of the Premises, including habitat for various wildlife in the area and protection of water resources;

d) The preservation of the scenic beauty and rural character of the Premises; and

e) The preservation of the archaeological, historic and cultural values of the Premises.

The Premises were acquired with Community Preservation Act funding (M.G.L. c. 44B) from the Town of Acton and shall be maintained in perpetuity for the purposes stated in Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts and shall be fully protected by all provisions of Article 97.

Therefore, in order to preserve the Premises in perpetuity in its present natural, scenic, and open condition, the Grantor conveys to the Grantee a perpetual Conservation Restriction within the meaning of Chapter 184, Section 31 et seq. of the General Laws of Massachusetts, as amended.

III. Prohibited Acts and Uses, Exceptions Thereto, and Permitted Uses:

A. Prohibited Acts and Uses

Subject to the exceptions and reserved rights set forth herein, the Grantor will not perform or permit the following acts and uses which are prohibited on, above, and below the Premises:

1. Buildings, Structures, Facilities and Improvements. Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, public parking for motorized vehicles, sign, fence, billboard or other advertising display, antenna/tower, utility pole/conduit, or other temporary or permanent structure or facility;

2. Excavating Soil, Mineral Resources, etc. Mining, excavating, dredging or removing soil, loam, peat, gravel, sand, rock or other mineral resources or natural deposits or other processes such as hydraulic fracturing that might allow mining to or from adjacent properties;

3. Dumping of Refuse and Other Materials. Placing, filling, storing or dumping soil, grass clippings, compost, yard debris or other substances on the ground or dumping or placing of refuse, trash, vehicle bodies or parts, rubbish, debris, junk, trash, solid or chemical waste or other substance or material whatsoever or the installation of underground storage tanks;

4. Cutting of Vegetation. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. Motorized Vehicles or Watercraft. Use, parking or storage of motorized vehicles of any kind, including but not limited to automobiles, motorcycles, mopeds, all-terrain vehicles, snowmobiles or any other motorized vehicles or watercraft on the Premises, except for vehicles permitted in conjunction with activities as permitted under Paragraph III.B;

6. Historical or Archaeological Resources. The disruption, removal, or destruction of any historical or archaeological resource, including but not limited to stone walls and granite fence posts;

7. Subdivision. Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;

8. Commercial Recreational, Business, Residential or Industrial Uses. The use of the Premises for commercial recreation, business, residential or industrial use; and

9. Active Team Sports Recreation. The use of the Premises for active recreation defined as team or school sports.

B. Reserved Rights and Exceptions

All acts and uses not prohibited in Paragraph III.A above are permissible, provided that such acts and uses do not materially impair the purposes of this Conservation Restriction or other significant conservation interests. The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not materially impair the conservation values or purposes of this Conservation Restriction:

1. Recreational Activities. Fishing, boating, biking, walking, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape and do not degrade environmental quality;

2. Educational Activities. Organized walks, educational programs, school field trips, farm

tours, and other similar activities designed to promote an understanding of nature, conservation, agriculture and/or history;

3. Vegetation Management. In accordance with generally accepted land conservation and management practices, removing of brush, selective minimal pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, and regular mowing at least once a year to prevent reforestation; and the planting of native trees and shrubs and the mowing of grass;

4. Agricultural Management.

(a) clearing, semi-annual mowing, and prescribed burning of vegetation;

(b) The planting, maintenance, cultivation, and harvesting of crops or fruit- or nut-bearing trees, together with soil preparation, conservation, and management activities commonly associated with such agricultural uses, including the plowing of agricultural fields and the addition of soil amendments, such as lime or compost (generated on or off the Premises), and grazing of livestock;

(c) The use of fertilizers, pesticides, herbicides, and fungicides, provided, however, that such agricultural chemicals are registered under Commonwealth of Massachusetts regulations and are used in accordance and consistent with all pertinent federal, state, and local instructions, limitations, laws, zoning, rules, and regulations. All agricultural chemicals must be applied to affect the target species and not non-target species, to the extent that is possible. At the same time, non-chemical, naturally sustainable and/or organic farming methods are also allowed;

(d) The maintenance of piles of limbs, brush, manure, leaves, compost, and similar biodegradable material generated on the Premises, but not stumps, provided such piles are not placed in any wetlands, and do not otherwise interfere with the conservation objectives of this Conservation Restriction; manure may not be stockpiled within any wetland buffer zones;

(e) The installation, maintenance, and removal of temporary, sight-pervious fences, including but not limited to electric fences, for the purposes of i) minimizing crop damage by wildlife during the growing season, provided, that such fencing be removed at the end of each growing season; and ii) containing grazing livestock on the Premises, provided that such fencing be removed when grazing is not occurring. Electric fences may remain in place if they are turned off when not in use and if gates are left open when not in use;

(f) The digging or drilling of water supply wells, together with the installation, construction, and placement of permanent underground and temporary aboveground pumps, conduits, hoses, and other equipment all as exclusively associated with agricultural irrigation on the Premises. Prior to commencing any such activities, plans for the wells and irrigation equipment shall be developed by the Grantor, after

consultation with the Grantees, and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

(g) Marketing of agricultural products that are grown on the Premises. Additionally, the construction, use, maintenance, repair, replacement, and removal of one (1) temporary structure not to exceed two hundred (200) square feet for the explicit use as a farmstand to support said marketing, provided however that such structure shall not have a permanent foundation including but not limited to a poured concrete pad, foundation, or footings. Prior to commencing any such activities, plans for the structure shall be developed by the Grantor, after consultation with the Grantees, and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

(h) Use of vehicles and other motorized equipment only as necessary for the agricultural management activities contemplated herein, including but not limited to tractors, trucks, balers, spreaders and planters, and similar types of vehicles;

(i) Construction of, or addition to, stone walls and/or piles incidental to the removal of rocks from plowed areas; and

(j) Activities authorized in the Farm Lease executed by the Grantor and its tenant, dated December 7, 2010 attached as Exhibit B.

Further, agricultural practices may only occur in such a manner as to minimize impact to water quality, reduce physical disturbance to sensitive areas, and reduce discharge of sediments, animal waste, nutrients, and chemicals to surface waters using best management practices that comply with all applicable federal, state and local environmental laws and regulations.

5. Non-Native or Nuisance Species. The removal of non-native, nuisance or invasive species, the interplanting of native species, including but not limited to beaver management, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality and scenic vistas;

6. Soil Management. Excavation and removal from the Premises of soil, gravel or other mineral resources or natural deposits (a) as may be incidental to the maintenance of trails, bikeways and access roads or (b) to maintain good drainage and hydrologic functioning of the Premises, provided that (a) such activities follow generally accepted soil conservation practices, and (b) disturbed areas are re-vegetated with native plant materials; and only after Grantor consultation with Grantees and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

7. Wildlife Habitat Improvement. Measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including but not limited to selective planting of native trees, shrubs and plant species, and avian nesting structures; and only after Grantor consultation with Grantees and with the Grantees'

approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

8. Archaeological Investigations. The conduct of archaeological activities, including but not limited to surveys, following submission of a Project Notification Form and its approval by the State Archaeologist/State Historic Preservation Office of the Massachusetts Historical Commission (or appropriate successor official); and only after Grantor consultation with Grantees and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

9. Signs. The erection, maintenance and replacement of signs and kiosks by the Grantor or Grantees, identifying the Grantees as the holders of the Conservation Restriction and the Grantor as the owner of the Premises, and educating the public about trail access, the protected conservation values and any rules pertaining to uses of the Premises;

10. Permitted Vehicles. Use of vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their lawful duties and trucks and other vehicles used for activities permitted by this Conservation Restriction and motorized and non-motorized vehicles to assist the mobility of handicapped persons;

11. Ponds. Activities necessary for the maintenance of existing ponds, including the removal of silt, earth, clay, loam, debris or invasive species, and the construction, repair, operation and maintenance of dams, spillways and water control devices thereon; and only after Grantor consultation with Grantees and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

12. Utilities. The construction, use, maintenance and replacement of utilities to serve all allowed uses on the Premises; however, the repair or replacement of existing utilities in their current locations shall require prior notice to (but not approval of) Grantees, and new construction, expansion or relocation of utilities shall require Grantor consultation with Grantees and Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld. Unless there is no practical alternative, new utilities shall be constructed underground;

13. Foot Bridge. Activities necessary for the maintenance of the existing bridge on the Premises with prior notice to (but not approval of) the Grantees and activities necessary for the removal and/or replacement of the existing bridge but only after Grantor consultation with Grantees and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld;

14. Allowable New Structures. In addition to the structures described above in Paragraph III.B, allowable new structures may also include boardwalks, structures facilitating pond access for fishing or non-motorized boating, temporary portable toilets, benches, temporary agriculture structures such as greenhouses or high tunnels and any structures required by federal, state and local laws and regulations; and only after Grantor consultation with Grantees and with the Grantees' approval as provided in Paragraph III.E, whose approval shall not be unreasonably withheld; and

15. Cleanup of Oil and Hazardous Materials. Notwithstanding anything herein to the contrary, nothing in this Conservation Restriction shall restrict the right to conduct any and all reasonably necessary environmental response actions on the Premises to address the release or future release of oil or hazardous materials on the Premises, provided that such response actions are conducted in compliance with all applicable federal and state laws and regulations.

C. Permitted Acts and Uses

All acts and uses not explicitly permitted by Section III, Paragraph B are prohibited unless otherwise approved as described in Paragraph III.E below.

D. Governmental Permits

The exercise of any right reserved by Grantor under Paragraph III.B shall be in compliance with the following: (a) then current building, zoning, land use, planning and conservation bylaws, ordinances and regulations applicable to the Premises; (b) any variances or special permits applicable to the Premises; (c) the Wetlands Protection Act (G.L. c. 131, Section 40) and (d) all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency means only that the Grantor may have a right to request a permit; it does not mean that the Grantee or the Commonwealth of Massachusetts takes any position on whether such permit should be issued.

E. Notice and Approval

Whenever notice to or approval by Grantee is required under the provisions of Paragraphs III.A or B, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, the Acton Conservation Trust and Sudbury Valley Trustees, Inc. shall act collectively with one consolidated response, as Grantee, and they shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction. Failure of Grantee to respond in writing with a collective response in 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice.

IV. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction. To the extent permitted by law, Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in good faith enforcement of this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof; provided, however, that Grantor shall not be obligated to reimburse Grantee for costs and expenses related to any such enforcement that Grantor successfully challenges as evidenced by a final, unappealed determination of a court of competent jurisdiction.

B. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes.

V. ACCESS

A. Access by the Grantee

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be reasonably necessary or appropriate to remedy or abate any violation hereof.

B. Access by the Public

The Grantor and the Grantee agree that the Grantor shall have the right to permit the general public access to the Premises for fishing, boating, biking, walking, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities on the established trails on the Premises, except during certain limited times of the year when such access would interfere with agricultural activities being conducted on the Premises, in which case limited public access must be posted on the Premises, including the dates during which such limitations or access prohibitions are in effect. The Grantor hereby reserves the right to alter the locations of established trails, provided that as so relocated, neither the conservation values of this Conservation Restriction nor access to and passage through the Premises is impaired. To the extent permitted by law, the Grantee hereby expressly disclaims any duty to maintain the Premises or warn persons who may enter upon the same. Pursuant to M.G.L. c. 21, s. 17c, neither the Grantor nor the Grantee is liable to any member of the public for injuries to person or property sustained by such person while on the Premises in the absence of willful, wanton, or reckless conduct.

VI. EXTINGUISHMENT

A. Termination by Judicial Proceeding Only

If circumstances arise in the future which render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction under applicable law.

B. The Grantee's Property Right in the Conservation Restriction; Value

Grantor and Grantee agree that the grant of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, bears to the value of the unrestricted

property.

C. Grantee's Right to Recover Value of its Property Right

If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds equal to the proportionate value set forth in Paragraph VI.B. All reasonable and directly-related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in such proportionate value, subject, however to the requirements of any gift, grant, or funding program, including M.G.L. c. 44B, or applicable law which expressly provides for a different disposition of the proceeds.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by the state or federal government by public authority under power of eminent domain, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in shares equal to the proportionate value set forth in Paragraph VI.B. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in such proportionate value, subject, however to the requirements of any gift, grant, or funding program or applicable law which expressly provides for a different disposition of the proceeds

E. Grantee's Use of Proceeds

Grantee shall use its share of any proceeds it receives pursuant to this Section VI to support is conservation mission.

VII. ASSIGNABILITY

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances: As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; and the Assignee, at the time of the assignment, is a "Qualified Organization" as defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including a leasehold interest, and to notify the Grantee within twenty (20) days of such transfer. Failure to do so shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable. The Grantor shall not be liable for violations occurring after his or her ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon a reasonable request by the Grantor, the Grantee shall, within thirty (30) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction or otherwise evidences the status of this Conservation Restriction.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this Conservation Restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and, if applicable, shall comply with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South District Registry of Deeds.

XI. PUBLIC USE

Grantor, Grantee and their successors and assigns shall have the benefit of Section 17C of Chapter 21 of the Massachusetts General Laws with respect to any person using the Premises for recreational, conservation, scientific, educational, environmental, ecological, research, religious or charitable purposes.

XII. NON-MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title to, any part of the Premises without having first assigned this Conservation Restriction to ensure that merger does not occur.

XIII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the Middlesex South District Registry of Deeds. The Grantee shall record this instrument in timely manner in said Registry of Deeds.

XIV. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Town of Acton
472 Main Street
Acton, MA 01720
Attention: Town Manager

To Grantee: Sudbury Valley Trustees
18 Wolbach Road
Sudbury, MA 01776
Attention: Executive Director

Acton Conservation Trust
PO Box 658
Acton, MA 01720

or to such other address as any of the above parties shall designate from time to time by written notice to the other or that is reasonably ascertainable by the parties.

XV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Sections 31-33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

E. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

F. Running of the Burden

The burden of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

G. Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. Without limiting the foregoing, the Grantor and the Grantor's successors and assigns agree themselves to execute any such instruments upon request.

H. Baseline Documentation

In order to establish the present condition of the Premises and the conservation values thereon that are protected by this Conservation Restriction, so as to enable the Grantee to monitor future uses of the Premises and to assure compliance with the terms hereof, Grantee has prepared an inventory of the relevant features and conditions of the Premises (the "Baseline Documentation Report"), and Grantor and Grantee agree that the same is an accurate representation of the condition of the Premises as of the date of the execution of this Conservation Restriction. Verified originals of the Baseline Documentation Report will be deposited with the Grantor and in the permanent records of the Grantee. If the originals of said Baseline Documentation Report are subsequently destroyed by casualty or other circumstance, other evidence may be offered by the parties to establish the condition of the Premises as of the date of this Conservation Restriction.

I. Subordination

Grantor represents, and Grantee relies on Grantor's representation that, to the best of Grantor's knowledge, the Premises are free from any lien, encumbrance or other interest by any third party other than the items listed on Exhibit C attached hereto.

No documentary stamps are required hereon because the Grantee is a municipality.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the said Town of Acton acting by and through its Board of Selectmen, in compliance with M.G.L. c. 44B and the Town Meeting vote, an attested copy of which attached hereto as Exhibit C, has caused these presents to be signed, acknowledged and delivered on this 10 day of June 2013.

TOWN OF ACTON
BOARD OF SELECTMEN

Janet K. Adachi, Chair

Michael Gowing, Vice-Chair

Katie Green, Clerk

David Clough

John Sonner

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this 10 day of June, 2013, before me, the undersigned notary public, personally appeared Ms. Adachi, Mr. Gowns, Ms. Green, Mr. Clough, Ms. Sonnen, as Selectmen of the Town of Acton, proved to me through satisfactory evidence of identification which was ☐ government-issued document bearing the signer's photographic image and signature ☐ my personal knowledge of the principal's identity, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires

CHRISTINE M. JOYCE
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
September 10, 2015

ACCEPTANCE OF
ACTON CONSERVATION TRUST
AND
SUDBURY VALLEY TRUSTEES, INC.

The above Conservation Restriction is accepted by the Acton Conservation Trust and Sudbury Valley, Trustees, Inc. as of this 26th day of June, 2013.

ACTON CONSERVATION TRUST

By: Susan Mitchell-Hardt
Name: SUSAN MITCHELL-HARDT
Title: PRESIDENT
Hereunto duly authorized

SUDBURY VALLEY TRUSTEES, INC.

By:
Name: Ronald McAdow
Title: Executive Director
Hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss:

On this 26th day of June, 2013, before me, the undersigned notary public, personally appeared Susan Mitchell-Hardt, _____, of the Acton Conservation Trust, proved to me through satisfactory evidence of identification which was ☒ government-issued document bearing the signer's photographic image and signature ☐ my personal knowledge of the principal's identity, to be the person whose name is signed on the preceding document, and acknowledged to me that she/he signed it voluntarily for its stated purpose.

WAYNE F. DEMERS, JR.
Notary Public, Commonwealth of Massachusetts
My Commission Expires January 18, 2019

Notary Public
My Commission Expires: 1/18/19

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this 17th day of JUNE, 2013, before me, the undersigned notary public, personally appeared Ronald McAdow, Executive Director, of the Sudbury Valley Trustees, Inc., proved to me through satisfactory evidence of identification which was ☐ government-issued document bearing the signer's photographic image and signature ☑ my personal knowledge of the principal's identity, to be the person whose name is signed on the preceding document, and acknowledged to me that she/he signed it voluntarily for its stated purpose.

Mary L Hall
Notary Public
My Commission Expires:

MY COMMISSION
EXPIRES ON
JULY 15, 2016

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Acton has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: August 23, 2013

Name: Richard K. Sullivan Jr.
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk
~~Middlesex~~, ss:

On this 23rd day of August, 2013, before me, the undersigned notary public, personally appeared Richard K. Sullivan Jr., proved to me through satisfactory evidence of identification which was ☐ government-issued document bearing the signer's photographic image and signature, ☒ my personal knowledge of the principal's identity, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: 12/7/2018

There are attached hereto or recorded simultaneously herewith and incorporated herein by reference the following Exhibits and Approvals:

Exhibit A: Plan of Premises

Exhibit B: Farm Lease

Exhibit C: Town Meeting Approval Vote

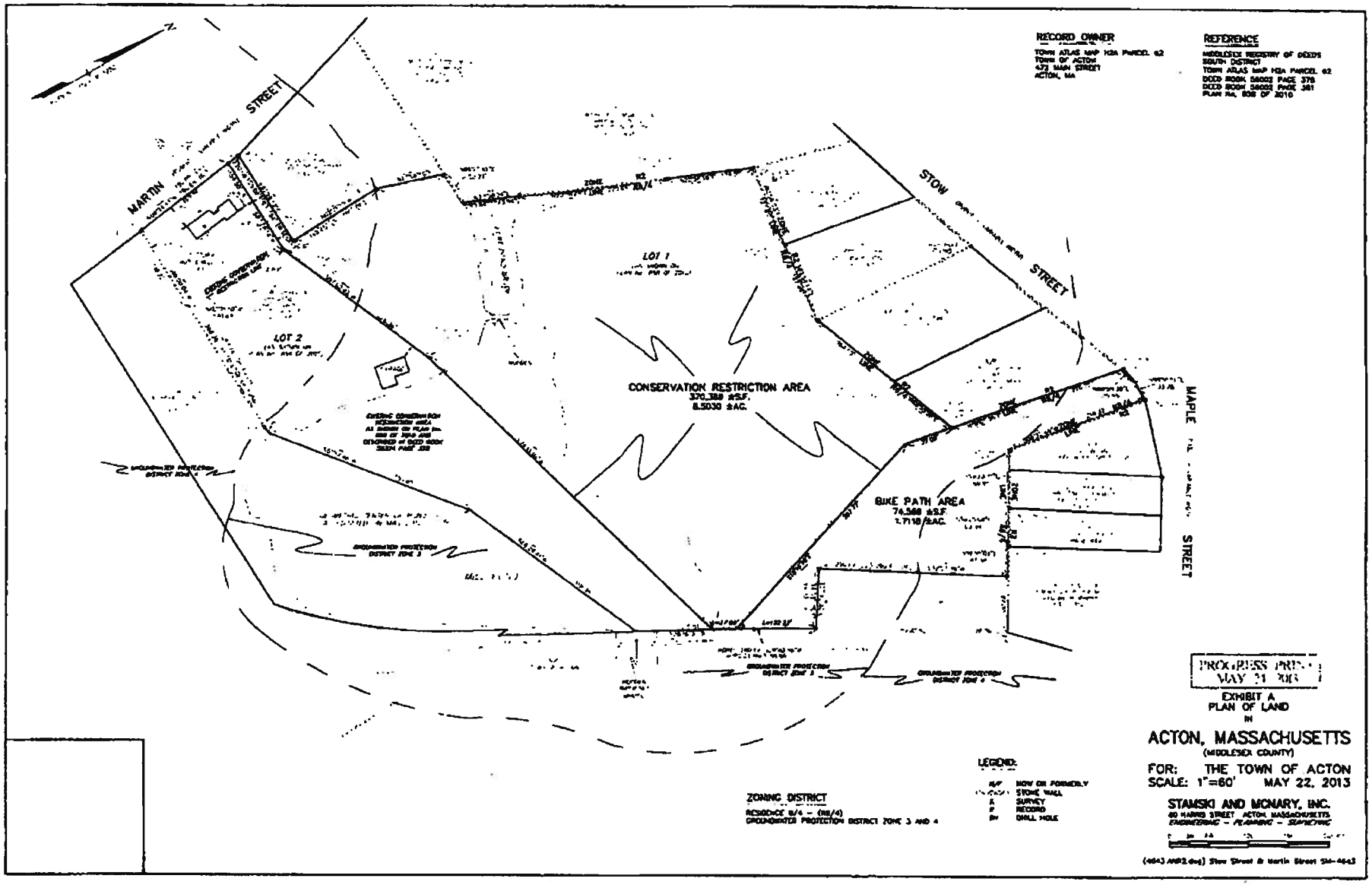

RECORD OWNER
TOWN ATLAS MAP H2A PARCEL 62
TOWN OF ACTON
472 MAIN STREET
ACTON, MA
REFERENCE
MIDDLESEX REGISTRY OF DEEDS
SOUTH DISTRICT
TOWN ATLAS MAP H2A PARCEL 62
DEED BOOK 54002 PAGE 378
DEED BOOK 54002 PAGE 381
PLAN NO. 808 OF 2010
MARTIN STREET
STOW STREET
MAPLE STREET
LOT 1
LOT 2
CONSERVATION RESTRICTION AREA
370,388 ±S.F.
8.5030 ±AC.
BIKE PATH AREA
74,588 ±S.F.
1.7118 ±AC.
GROUNDWATER PROTECTION DISTRICT ZONE 3
GROUNDWATER PROTECTION DISTRICT ZONE 4
ZONING DISTRICT
RESIDENCE B/4 – (RB/4)
GROUNDWATER PROTECTION DISTRICT ZONE 3 AND 4
LEGEND:
N/F NOW OR FORMERLY
STONE WALL
SURVEY
RECORD
DRILL HOLE
EXHIBIT A
PLAN OF LAND
IN
ACTON, MASSACHUSETTS
(MIDDLESEX COUNTY)
FOR: THE TOWN OF ACTON
SCALE: 1"=60' MAY 22, 2013
STAMSKI AND MCNARY, INC.
80 HARRIS STREET ACTON, MASSACHUSETTS
ENGINEERING – PLANNING – SURVEYING

Exhibit B: Farm Lease

FARM LEASE

This farm lease is made as of the Date of Lease below specified by and between the Landlord and Tenant identified herein.

WITNESSETH:

SPECIAL PROVISIONS

1. DATE OF LEASE: December 7, 2010
2. LANDLORD: Town of Acton, Massachusetts
3. LANDLORD'S ADDRESS: 472 Main Street, Acton, MA 01720
4. TENANT: Carl Simeone d/b/a Stonefield Farm
5. TENANT PARTIES: Tenant and its employees, agents, contractors, invitees and permittees.
6. TENANT'S ADDRESS: 91 Martin Street, Acton, MA 01720
7. DEMISED PREMISES: Land containing approximately 10.2148± acres, consisting of a portion of Parcel 62 on Acton Assessor's Maps H-2A and H-3B and a portion of Parcel 95 on Acton Assessor's Map H-2, shown as "Lot 1" on the plan entitled "Plan of Land in Acton, Massachusetts (Middlesex County)" dated October 22, 2010 and prepared by Stamski and McNary, Inc attached hereto as Exhibit A.
8. LEASE TERM: Ten years
9. TERMINATION DATE: December 6, 2020, unless extended pursuant to this Lease.
10. BASE RENT: $1 annually. Base Rent for each calendar year shall be paid in advance on the date of execution hereof or the first day of each calendar year, as applicable.
11. ADDITIONAL RENT: All utilities, insurance, other charges and monetary obligations of Tenant (other than Base Rent) under this lease. Additional Rent, if any, shall be paid promptly when invoiced by Landlord.
12. PERMITTED USE: The Demised Premises may be used solely for agricultural purposes and uses accessory thereto, which uses shall be generally consistent with Tenant's current use of the Demised Premises.
13. SECURITY DEPOSIT: $40,000

ARTICLE I - PREMISES:

Section 1.1 Demised Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, upon and subject to the terms and provisions of this Lease, the Demised Premises identified in the Special Provisions. Wherever in this Lease the term "Demised Premises" is used, said term encompasses the parcel identified in the Special Provisions, including any and all existing and future structures and improvements, as the same may from time to time be altered.

The Demised Premises are leased to Tenant "AS IS." The Demised Premises are subject to and with the benefit of all present and future covenants, restrictions, easements, encumbrances, rights and agreements of record to the extent in force and applicable, including a conservation restriction that will be placed on the Demised Premises

by Landlord in accordance with the requirements of the Community Preservation Act, M.G.L. c. 44B (see Section 5.3 hereof). During the Lease Term, future covenants, restrictions, easements, encumbrances, rights and agreements of record placed on the Demised Premises by Landlord, excluding the conservation restriction referenced above, shall not materially or substantially interfere with the use of the Demised Premises for the Permitted Uses, except that future improvements within "Public Access Area II" (see below and Exhibit B) may reduce the field acreage.

Landlord shall have the right to access and enter upon the Demised Premises for the purposes of inspection and exercising any right reserved to Landlord by this Lease. In the event of any such entry, and except as otherwise provided herein, Landlord shall use reasonable efforts to minimize interference with or disruption of Tenant and Tenant's agricultural activities resulting from Landlord's access.

Landlord and Tenant agree that Landlord may give the public the right to access and enter upon:

(a) The portion of the Demised Premises marked as "Public Access Areas I and II" on the plan attached hereto as Exhibit B for passive recreational purposes, including without limitation walking, bird watching and cross country skiing, subject to the temporary limitations and restrictions related to the application of herbicides and pesticides as set forth below ("Public Access Areas I and II" are collectively referred to herein as the "Access Areas"). Landlord may close the bridge on the Demised Premises for public access during the Lease Term, including installing ropes, chains and/or signs thereon to prevent or discourage such access. Tenant and his employees may continue to use the bridge after closure at Tenants's own risk.

(b) The portion of the Demised Premises marked as "Public Access Area II" on the plan attached hereto as Exhibit B for public vehicular access and parking, a public driveway, a public rail trail/multi-use path, and emergency access between Stow Street and the future Assabet River Rail Trail on the former MBTA railroad right of way along the easterly side of the Demised Premises, without temporary restrictions or limitations. Landlord may utilize all or part of "Public Access Area II" to construct said parking lot and access facilities. Landlord shall deliver a one-time written notice to Tenant at least six (6) months before any facility construction for any of the uses mentioned in this subparagraph (b) commences, and Landlord shall not be required to deliver any further notice of any such uses after the delivery of the initial notice described herein.

(c) All of the Demised Premises, notwithstanding the foregoing, during the months of December through March of each year because the Demised Premises will not be used for agricultural purposes during that period.

Tenant shall conduct the Permitted Uses in a way that minimizes any interference with or the disruption of the access permitted above; provided, however, that both Landlord and Tenant acknowledge and agree that the public must be protected from exposure to herbicides and pesticides and that Tenant is required by law to take certain precautions, which may include posting of warning signs and restricting public access to the Demised Premises or to appropriate portions thereof in conjunction with applications of herbicides or pesticides for Tenant's agricultural operations. Further, Landlord and Tenant acknowledge and agree that Landlord has a need to know which herbicides and pesticides were applied in which location during the Lease Term. Therefore, Landlord and Tenant agree that:

(a) The Demised Premises or appropriate portions thereof will be closed to public access during herbicide and pesticide applications and for such time period after each application as applicable law may require, typically no more than two (2) days after each application; provided, however, that notwithstanding anything set forth herein to the contrary, "Public Access Area II," upon commencement of the parking and access uses stated above, shall not be closed to the public under any circumstances, and Tenant shall not apply herbicides or pesticides on or within ten (10) feet of such area.

(b) The Demised Premises will not be so closed more often than as required for pest control purposes in accordance with generally accepted Integrated Pest Management (IPM) practices.

(c) Weed and pest control measures under IPM practices do not follow a rigid predictable schedule. Rather, herbicides and pesticides are applied as needed and only if infestations have reached or exceeded certain thresholds. In such events, time is of the essence. Therefore, Tenant shall deliver written notice to Landlord (which notice may be delivered by e-mail to manager@acton-ma.gov) immediately upon Tenant's determination that one or more applications of herbicides or pesticides, which will require the closure of the Demised Premises to the public, is likely or probably necessary in the coming days. Nothing herein shall prevent Tenant from taking appropriate pest control measures consistent with IPM management practices in emergency situations without said notice to Landlord.

Tenant shall post warning signs along the Access Areas pursuant to 333 C.M.R. 13.02, which Access Areas shall be considered "public ways" under said regulation, before, during, and after each herbicide and pesticide application and take other reasonable measures to protect the public from accidental herbicide or pesticide exposure.

(d) The parties intend that the use of the Demised Premises by the public shall be free of charge and that liability related to such use shall be governed by M.G.L. c. 21, sec. 17C.

(e) Landlord and Tenant shall discuss and agree upon appropriate rules and provisions governing public access, consistent with the terms hereof, so that such public access and Tenant's farming operations are compatible with each other to the extent practicable.

(f) Tenant agrees to file with Landlord annually before December 31 of each year of the Lease Term a complete log of herbicides and pesticides applied in each of the fields on the Demised Premises, including types, brand names, EPA numbers, crops applied to, dates of applications, acreages applied to, application rates per acre, and total amounts applied.

ARTICLE II - TERM OF LEASE.

Section 2.1 Lease Term. Subject to the terms hereof, Tenant shall have the right to use the Demised Premises during the period of the Lease Term, unless such term is terminated early as hereinafter set forth.

Section 2.2 Acceptance of Demised Premises. Tenant agrees that no representations or warranties, express or implied, respecting the condition of the Demised Premises and no promises to alter, repair or improve the Demised Premises, either before or after the execution hereof, have been made by Landlord or its agents to Tenant.

ARTICLE III - RENT.

Tenant covenants and agrees to pay Base Rent to Landlord as provided in the Special Provisions at Landlord's Address, or at such other address as Landlord shall from time to time designate in writing. Base Rent for any portion of a year shall not be pro-rated.

ARTICLE IV- UTILITIES.

Throughout the term of the Lease, Tenant shall pay, either directly or as Additional Rent, the cost of all utilities furnished to the Demised Premises.

Tenant shall pay or cause to be paid as Additional Rent, before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all taxes, assessments, special use or assessment district taxes, excises, levies, license and permit fees and all other governmental charges of any kind and nature which during the Lease Term may be assessed, levied, imposed upon or become due with respect to, or become a lien on, the Demised Premises or the leasehold or any part thereof or any appurtenance thereto. All such charges shall be referred to herein as "Impositions." Tenant shall have the right to contest or object to the amount or validity of any Imposition but shall not withhold payment of any Imposition while any such contest or objection is pending. Tenant, upon request of Landlord, shall furnish to Landlord within thirty (30) days of the date when any Imposition would become

delinquent official receipts of the appropriate authority or other evidence reasonably satisfactory to Landlord evidencing payment thereof.

Tenant shall pay promptly when due all taxes which may be imposed upon personal property (including fixtures taxed as personal property) in, on or within the Demised Premises directly to the assessing party.

Landlord shall not be required to furnish to Tenant any facilities or services in its capacity as landlord hereunder.

ARTICLE V - USE OF PREMISES; ASSIGNMENT AND SUBLEASE.

Section 5.1 Use of Demised Premises. Tenant agrees that the Demised Premises during the term of this Lease shall be used by the Tenant only for the Permitted Use.

Section 5.2 Additional Tenant Covenants. It being the intention of the parties to this Lease that it be a fully and completely "net" lease, Tenant further agrees to conform to the following provisions during the entire term of this Lease:

(a) Except for improvements, if any, constructed by Landlord, Tenant shall be solely responsible for all management, maintenance, repair, and upkeep of the Demised Premises and shall not allow any trash or rubbish to accumulate on the Demised Premises during the Lease Term; provided, however, that Tenant shall not be responsible for the management, maintenance, repair, and upkeep of the Access Areas. Notwithstanding the foregoing, Tenant shall be required to maintain the bridge on the Demised Premises in good condition, suitable for Tenant's use thereof related to the Permitted Uses, but Tenant shall not be required to improve that bridge to accommodate public access and any laws related thereto, such as the Americans with Disabilities Act.

(b) Tenant shall operate the Demised Premises in a commercially reasonable manner and generally maintain it in productive farm use during the Lease Term.

(c) Except as specifically provided otherwise in Sections 1.1, 5.2(a) and 11 hereof, Tenant shall be solely responsible for compliance with all health, safety and building laws with respect to the Demised Premises, including but not limited to compliance with all laws and regulations pertaining to environmental matters.

(d) Tenant shall utilize only pesticides and herbicides that have been approved for use in accordance with applicable law. The rate and location of application shall not exceed that permitted for the specific crops being planted and pesticide or herbicide being used. All other label restrictions and guidelines shall be strictly observed.

(e) Tenant shall take appropriate measures, in keeping with good agricultural practice, to limit soil erosion and loss from the site to acceptable levels.

(f) Landlord shall have no obligation to provide any maintenance, repair, upkeep, and management of the Demised Premises other than the Public Access Area.

(g) Tenant shall indemnify and hold harmless Landlord and each of its officers, board members, employees and representatives against all claims, damages, losses, penalties, actions, liens, demands, costs, liabilities, expenses, fines and judgments (including without limitation reasonable legal fees) related to the use of the Demised Premises by the Tenant Parties; provided, however, that this indemnification shall not apply to any claims, damages, losses, penalties, actions, liens, demands, costs, liabilities, expenses, fines and judgments arising directly and primarily from any act of gross negligence or willful misconduct of Landlord.

(h) Tenant shall not be entitled to assign this Lease or sublease the Demised Premises without the written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion. Such consent shall not be required, however, for assignment of this Lease to an entity that is wholly controlled by Tenant.

(i) No vehicles of the Tenant Parties, other than farm vehicles and vehicles used by third party suppliers, workers and customers, shall be permitted on the Demised Premises. Overnight parking of any vehicles is prohibited.

(j) Tenant shall not be entitled to construct improvements or make alterations to the Demised Premises without the written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion.

(k) With the exception of the erection and maintenance of sight-pervious fencing for control of access to the farm fields by persons and animals, Tenant shall maintain the perimeter of the Demised Premises that abuts the adjacent residential lots in neat and orderly condition, including controlling weed growth by cultivation, mowing and/or tilling within ten (10) feet of the adjacent residential lots.

Section 5.3 Conservation Restriction on Demised Premises. Tenant acknowledges and understands that the Demised Premises have been purchased with funds from the Open Space Set-Aside Fund of the Community Preservation Fund of the Town of Acton. Pursuant to the terms of the Community Preservation Act, M.G.L. c. 44B, Landlord intends to place a conservation restriction on the Demised Premises. Tenant acknowledges that the terms of the conservation restriction must be approved by the Executive Office of Energy and Environmental Affairs ("EOEEA") and, notwithstanding anything set forth herein to the contrary, the parties agree that Farm Lease will be subject to the terms thereof. Landlord will consult with Tenant concerning the terms of the conservation restriction that will materially affect the agricultural use of the Demised Premises, and, if Tenant desires, will afford Tenant an opportunity to review such restriction in draft form prior to its submission to EOEEA; provided, however, that Landlord shall be entitled to make all final decisions concerning the conservation restriction terms. Landlord shall use reasonable efforts in an attempt to ensure that agricultural use of the Demised Premises is permitted under the conservation restriction for the property. Tenant acknowledges, however, that Landlord cannot guarantee that agricultural use of the Demised Premises will not be prohibited or materially impaired under the terms of the final conservation restriction. If such use is prohibited or materially impaired, Tenant or Landlord shall be entitled to terminate this Farm Lease through written notice to the other party hereto.

ARTICLE VI – SURRENDER.

Upon the expiration or sooner termination of this Lease, Tenant shall surrender to Landlord the Demised Premises in neat condition and, except as specifically provided otherwise in writing by Landlord, shall remove all farm equipment, agricultural goods, agricultural fertilizers and pesticides, agricultural waste, structures, improvements and all manmade materials and debris. Tenant shall leave existing root systems in place and, at the Town's election, plant or spread wildflower seed mix supplied by the Town as is necessary to stabilize the soil prior to Tenant's surrender of the Demised Premises. The cost of the purchase, but not the spreading or planting of any wildflower seed mix, shall be paid by the Town.

ARTICLE VII – TENANT'S INSURANCE.

Tenant agrees to maintain during the term hereof and until all of Tenant's responsibilities have been satisfied hereunder a policy of commercial general liability insurance on an occurrence basis under which the Landlord is named as an additional insured. Such policy shall not be cancelled, non-renewed or modified without at least thirty (30) days' prior written notice to Landlord. The minimum limits of liability of such insurance shall be not less than One Million Dollars ($1,000,000.00), combined single limit, for personal injury and death and for property damage arising out of any one incident or disaster. The Tenant shall provide the Landlord and said Landlord's designees with a new Certificate of Insurance, showing the Landlord as additional insured, thirty (30) days prior to the expiration of the then current insurance policy or policies in force.

All insurance provided for in this Article VII shall be effected under valid and enforceable policies, issued by insurers of recognized responsibility licensed and doing business in Massachusetts and having a so-called Best's Financial Strength Rating of "A:IX" or better, or, if such rating is no longer issued, an equal or better rating by a successor insurance carrier rating service reasonably acceptable to Landlord. Any deductible amounts under any insurance policies required hereunder shall not exceed five thousand dollars ($5,000). Upon the execution of this Lease, a binder of such insurance or, upon written request of Landlord, a duplicate original of the policy, shall be delivered by Tenant to Landlord. In addition, evidence of the payment of all premiums of such policies will be delivered to Landlord. All commercial general liability, property damage liability and casualty policies maintained by Tenant will be written as primary policies, not contributing with and not in excess of coverage that Landlord may carry. If Tenant fails to maintain such insurance, which failure continues for ten (10) days after Landlord gives notice to Tenant of such failure, then Landlord, at its election, may procure such insurance as may be necessary to comply with the above requirements (but shall not be obligated to procure same), and Tenant shall repay to Landlord as Additional Rent the cost of such insurance plus an insurance failure fee of twenty-five percent (25%) of any such cost.

ARTICLE VIII - TERMINATION AND DEFAULT.

Section 8.1 Events of Default.

Each of the following events shall be deemed an "Event of Default" hereunder:

(a) If Tenant shall fail to (i) pay, as and when due, any payment of rent or other sums payable under this Lease, (ii) comply with the provisions of the Special Provisions hereof with respect to Permitted Uses of the Demised Premises, or (iii) maintain any insurance required to be maintained by Tenant and any such failure shall continue for a period of fifteen (15) days after notice from Landlord to Tenant;

(b) If Tenant shall fail to perform or comply with any other of the agreements, terms, covenants or conditions in this Lease, for a period of thirty (30) days after notice from Landlord to Tenant specifying the items in default, or in the case of a default or a contingency which cannot with due diligence be cured within such thirty (30) day period, within such additional time reasonably necessary provided Tenant commences to cure the same within such 90-day period and thereafter prosecutes the curing of such default with diligence;

(c) If Tenant shall initiate the appointment of a receiver to take possession of all or any portion of the Demised Premises or Tenant's leasehold estate for whatever reason, or Tenant shall make an assignment for the benefit of creditors, or Tenant shall initiate voluntary proceedings under any bankruptcy or insolvency law or law for the relief of debtors; or if there shall be initiated against Tenant any such proceedings which are not dismissed or stayed on appeal or otherwise within sixty (60) days, or if, within sixty (60) days after the expiration of any such stay, such appointment shall not be vacated or stayed on appeal;

(d) If Tenant vacates or abandons the Demised Premises for a period of more than forty-five (45) consecutive days, not including seasonal closures and other temporary cessations of active use in the ordinary course of farm operation;

(e) If this Lease or the Demised Premises or any part of the Demised Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not discharged within ninety (90) days after its levy, or such further time as Landlord may in its discretion allow in the event the Tenant is vigorously and in good faith contesting the attachment; and

(f) Tenant makes any assignment or sublease in violation of this Lease.

Section 8.2 Remedies.

Upon an Event of Default, Landlord at any time thereafter may give written notice to Tenant specifying such Event or Events of Default and stating that this Lease and the Lease Term hereby demised shall expire and terminate on the date specified in such notice if the Event of Default has not been cured by Tenant before that date.

Upon the date specified in such notice, this Lease and the Lease Term and all rights of Tenant under this Lease shall expire and terminate (unless prior to the date specified for termination the Event or Events of Default shall have been cured, in which case this Lease shall remain in full force and effect), Tenant shall remain liable as hereinafter provided and, at the Landlord's option, Landlord shall be entitled to (a) remove some or all of the improvements and personal property from the Demised Premises and store the same at Tenant's expense, (b) remove some or all of the improvements and personal property from the Demised Premises, sell the same and apply the net proceeds of the sale (after deducting Landlord's costs and expenses related thereto) to Tenant's outstanding obligations hereunder and return the remainder of the net proceeds, if any, to Tenant or (c) assume ownership of some or all of the improvements and personal property on the Demised Premises without the necessity of any deed or conveyance from Tenant to Landlord. If Landlord elects to take ownership of some or all of the improvements and personal property on the Demised Premises, Tenant agrees upon request of Landlord to immediately execute and deliver to Landlord any deeds, releases or other documents deemed necessary by Landlord to evidence the vesting in Landlord of the ownership of all improvements. Upon termination of the Lease as provided in this Section 8.2, Landlord may re-enter the Demised Premises and dispossess Tenant and anyone claiming by, through or under Tenant by summary proceedings or other lawful process.

Section 8.3 Landlord's Right To Perform Tenant's Covenants.

(a) Upon an Event of Default, Landlord may, but shall be under no obligation to, cure such default. Landlord may enter upon the Demised Premises for any such purpose and take all such action thereon as may be necessary.

(b) Landlord shall not be liable for inconvenience, annoyance, disturbance or other damage to Tenant or any operator or occupant of the Demised Premises by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment onto the Demised Premises during the course thereof, and the obligations of Tenant under this Lease shall not be affected thereby.

(c) All reasonable sums so paid by Landlord and all reasonable costs and expenses incurred by Landlord, including reasonable attorneys' fees and expenses, in connection with the performance of any such act shall be paid by Tenant to Landlord, as Additional Rent, on demand. If Landlord shall exercise its rights under this Section 8.3 to cure a default of Tenant, Tenant shall not be relieved from the obligation to make such payment or perform such act in the future, and Landlord shall be entitled to exercise any remedy contained in this Lease if Tenant shall fail to pay such obligation to Landlord upon demand. All costs incurred by Landlord hereunder shall be presumed to be reasonable in the absence of a showing of bad faith, clear error, or fraud.

Section 8.4 Injunctive Relief.

In the event of any breach or threatened breach by Tenant or Landlord of any of the agreements, terms, covenants or conditions contained in this Lease, the Tenant or Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease.

Section 8.5 Remedies Cumulative.

Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

ARTICLE IX – TAKING.

Section 9.1 Award.

In the event that the Demised Premises, or any part thereof, shall be taken (a) by exercise of any right of eminent domain by an authorized governmental entity other than Landlord or (b) by agreement between Landlord and Tenant and those authorized to exercise such right (any such matters being herein referred as a "Taking"), Landlord and Tenant shall have the right to participate in any Taking proceedings or agreement for the purpose of protecting their interests hereunder. Each party so participating shall pay its own expenses therefor.

Section 9.2 Termination.

If at any time during the Lease Term there shall be a Taking of the whole or substantially all of the Demised Premises, this Lease shall terminate and expire on the earlier of (i) the date upon which the condemning authority takes possession of the real estate subject to the Taking; or (ii) the date title to the real estate is vested in the condemning authority. Rent hereunder shall be paid to the date of such Taking. For the purpose of this article, "substantially all of the Demised Premises" shall be deemed to have been taken if the untaken part of the Demised Premises shall be insufficient to allow the economic and feasible operation of the Demised Premises by Tenant. Tenant's interest in any Taking award will equal the value to Tenant of the remaining Lease Term (the "Tenant's Share"). Landlord's interest in any taking by condemnation will equal the value of its fee interest plus the remaining interest in the structures and improvements to remain on the Demised Premises after the termination hereof (the "Landlord's Share"). All awards from the Taking will be divided between Tenant and Landlord in the proportion that Tenant's Share bears to Landlord's Share.

No such termination of this Lease under this Article IX shall release Tenant from any obligation hereunder for rent accrued or payable for or during any period prior to the effective date of such termination, and any prepaid rent and insurance premiums beyond the effective date of such termination shall be adjusted.

Section 9.3 Insubstantial Taking.

If a portion of the Demised Premises is taken and Section 9.2 does not apply, then this Lease will automatically terminate on the date of the Taking only as to the portion of the Demised Premises taken and this Lease will continue in full force and effect with respect to the remaining portion of the Demised Premises with Base Rent proportionately reduced. In such event, any partial Taking award shall be paid to Acton.

Section 9.4 Temporary Taking.

Notwithstanding anything set forth herein to the contrary, if the whole or any part of the Demised Premises shall be the subject of a temporary Taking of ninety (90) days or less, this Lease shall remain in full force, including, without limitation, the Lease Term and Tenant's obligation to pay rent hereunder, and Tenant shall be entitled to receive the entirety of any award so made for the period of the temporary Taking which is within the Lease Term.

ARTICLE X – HOLDOVER.

If Tenant or any party claiming by, through or under Tenant retains possession of the Demised Premises or any part thereof after the expiration or earlier termination of this Lease, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes (a) an Event of Default under the Lease, or (b) a month-to-month tenancy, upon the terms and conditions set forth in this Lease, or (c) the creation of a tenancy-at-sufferance, in any case upon the terms and conditions set forth in this Lease. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession. The provisions of this Article X shall not constitute a waiver by Landlord of any right of re-entry as set forth in this Lease; nor shall receipt of any rent or any other act in apparent affirmation of the tenancy operate as a waiver of Landlord's right to terminate this Lease for a breach of any of the terms, covenants, or obligations herein on Tenant's part to be performed.

ARTICLE XI - MISCELLANEOUS PROVISIONS.

Section 11.1 Covenant of Quiet Enjoyment.

Upon payment of the Base Rent and performance of the covenants upon Tenant's part to be performed hereunder and subject to the terms hereof, Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Demised Premises during the term hereof without hindrance or molestation by Landlord or the public, except as otherwise provided herein. Tenant shall not commit, nor suffer to be committed, any nuisance or other act or thing against public policy that may disturb the quiet enjoyment of any property owners adjacent to the Demised Premises.

Section 11.2 Status Report.

Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgagees or the like, the then current status of performance hereunder, either party, on the written request of the other made from time to time, will promptly furnish a written statement of the status of any matter pertaining to this Lease, in form and substance as shall be reasonably requested by such third parties and reasonably acceptable to the party or parties signing the statement.

Section 11.3 Mechanic's Liens.

Tenant agrees to pay promptly for any work done (or material or service furnished) by or on behalf of Tenant in or about the Demised Premises, and Tenant shall not permit or suffer any lien to attach to the Demised Premises or any other premises owned by the Landlord. Tenant agrees, within thirty (30) days after Tenant receives written notice of the filing of any action based upon any Notice of Contract and Statement of Account (either by payment or by filing of the necessary bond, or otherwise) for the purpose of asserting any mechanic's, materialmen's, or other lien against the Demised Premises, to act to prevent such lien from attaching to the Landlord and/or Landlord's interest therein, if such liens may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies, or equipment alleged to have been furnished to or for the Tenant in, upon or about the Demised Premises.

Section 11.4 Invalidity of Particular Provisions.

If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 11.5 Provisions Binding, and Other Miscellaneous Matters.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns, respectively, of Landlord and Tenant. Each and every reference to the "Tenant" hereunder shall mean the Tenant named herein and its or their respective heirs, administrators, successors and assigns, unless otherwise expressly stated to the contrary.

Section 11.6 Governing Law.

This Lease shall be governed exclusively by the provisions hereof and by the laws of the Commonwealth of Massachusetts.

Section 11.7 Notices.

Whenever by the terms of this Lease notice, demand, or other communication shall or may be given either to Landlord or to Tenant, the same shall be in writing and shall be (i) by hand delivery, (ii) by registered or certified

mail, return receipt requested, postage prepaid, or (iii) by a recognized overnight courier (such as Federal Express) furnishing a receipt upon delivery:

If intended for Landlord, addressed to the Town Manager at Landlord's Address as set forth in the Special Provisions, (or to such other address or addresses as may from time to time hereafter be designated by Landlord by like notice) with a copy to:

Ryan D. Pace
Anderson & Kreiger LLP
One Canal Park, Suite 200
Cambridge, MA 02141
TEL: (617) 621-6528
FAX: (617) 621-6628

If intended for Tenant, addressed to it at Tenant's Address as set forth in the Special Provisions (or to such other address or addresses as may from time to time hereafter be designated by Tenant by like notice) with a copy to:

Douglas A. Muir, Esq.
Garrity, Levin and Muir LLP
One Center Plaza, Suite 230
Boston, MA 02108
TEL: (617) 236-5011
FAX: (617) 236-5014

The same shall be deemed to be delivered on the earlier of (a) the date received, or (b) the date of delivery, refusal, or non-delivery if and as indicated on the return receipt of the United States Postal Service or of such overnight courier.

Section 11.8 Tenant's Obligations with Respect to Environmental Matters.

(a) Tenant shall, at all times, comply with all applicable federal, state, and local environmental and other laws, ordinances, orders or regulations now or hereafter affecting or applicable to the Demised Premises or the operation of Tenant's business at the Demised Premises (the foregoing laws, ordinances, orders, and regulations are hereinafter collectively referred to as "Environmental Laws"), and Tenant shall ensure that the Tenant Parties do the same.

(b) Tenant does hereby agree to indemnify, defend, and save and hold harmless Landlord from all claims, damages, losses, penalties actions, liens, demands, costs, liabilities, expenses, fines and judgments (including without limitation reasonable legal fees) attributable to any claims related to, resulting from or arising by reason of the following: (i) generation, treatment, storage, discharge or disposal of Hazardous Substances (as defined below) on the Demised Premises by the Tenant Parties; (ii) the violation of any Environmental Laws on the Demised Premises by the Tenant Parties; and (iii) the violation of any of the provisions of this Section 11.8 by the Tenant Parties, in any case, including, without implied limitation, reasonable engineering, attorney's and other professional fees and expenses for evaluating, and/or curing the same and for consulting, engineering, defending against any such claims or removing such Hazardous Substances, and for enforcing this indemnification.

For purposes of this Lease, "Hazardous Substances" shall mean, but shall not be limited to, any oil, petroleum product and any hazardous or toxic waste or substance, any substance which because of its quantitative concentration, chemical, radioactive, flammable, explosive, infectious or other characteristics, constitutes or may reasonably be expected to constitute or contribute to a danger or hazard to public health, safety or welfare or to the environment, including without limitation any asbestos (whether or not friable) and any asbestos-containing materials, lead paint, waste oils, solvents and chlorinated oils, polychlorinated biphenyls (PCBs), toxic metals, explosives, reactive metals and compounds, radon gas, urea formaldehyde foam insulation and chemical, biological and radioactive wastes, or any other similar materials which are included under or regulated by any Environmental Laws.

Section 11.9 Security Deposit.

Tenant shall deliver the Security Deposit specified in the Special Provisions in the form of an irrevocable letter of credit upon the execution hereof. Said letter of credit shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults with respect to any provision of this Lease, Landlord may draw upon or use any part of the Security Deposit for the payment of any rent or any other sum in default or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion is so drawn or used, Tenant shall within five (5) days after written demand therefor restore the letter of credit to its original amount, and Tenant's failure to do so shall be a material breach of this Lease. If Landlord conveys Landlord's interest under this Lease, the Security Deposit, or any part not previously applied, may be turned over by Landlord to Landlord's grantee, and, if so turned over, Tenant agrees to look solely to such grantee for proper application of the Security Deposit in accordance with the terms of this section and the return thereof in accordance herewith.

The irrevocable letter of credit that shall be delivered by Tenant hereunder shall be in a form acceptable to Landlord and shall be drawn on a bank approved in writing by Landlord that has at least one branch in Acton, Massachusetts. The letter of credit shall be addressed to Landlord, shall permit partial draws and shall be payable upon simple demand by Landlord accompanied by a sworn statement of the Acton Town Manager or his or her designee stating that the drawing represents amounts due to Landlord from Tenant under this Lease following an Event of Default.

Such letter of credit shall be issued for: (a) a term of not less than twelve (12) months with automatic yearly renewals through the Lease Term, provided that the letter of credit shall not expire until thirty (30) days after then end of the Lease Term; or (b) a term that does not expire until thirty (30) days after the end of the Lease Term. Any termination or expiration of the letter of credit during the Lease Term or the period of thirty (30) days thereafter shall be an Event of Default under this Lease and shall entitle Landlord to immediately draw upon the letter of credit for the full amount of the Security Deposit. In such case, Landlord will hold the net proceeds of any such drawing as the Security Deposit after deducting any amounts then owed to Landlord, including costs incurred by Landlord in connection with such drawing. Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep said proceeds separate from its general funds, and Tenant shall not be entitled to interest on the Security Deposit. Upon the termination of this Lease and after Landlord has used said proceeds for the payment of any rent or any other sum in default or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default, any remaining proceeds shall be returned to Tenant.

Section 11.10 Amendments.

This Lease may not be amended, modified, supplemented or extended except by a written instrument executed by Landlord and Tenant.

Section 11.11 Integration.

All prior understandings and agreements between the parties with respect to the subject matter of this Lease are merged within this Lease, which alone fully and completely sets forth the understanding of the parties..

Section 11.12 Brokers.

Each of Landlord and Tenant each warrants and represents to the other that it has had no dealings or negotiations with any broker or agent in connection with this Lease. Tenant agrees to pay, and shall hold Landlord harmless and indemnified from and against any and all costs, expenses (including without limitation counsel fees) or liability for any compensation, commissions and charges claimed by any broker or agent resulting from any such dealings by the indemnifying party with respect to this Lease or the negotiation thereof.

Section 11.13 Covenants Running with the Land.

Tenant intends, declares, and covenants, on behalf of itself and all future holders of Tenant's interest hereunder, that this Lease and the covenants and restrictions set forth in this Lease regulating and restricting the use, occupancy, and transfer of the Demised Premises (a) shall be and are covenants running with the Demised Premises, encumbering the Demised Premises for the Lease Term, binding upon Tenant and Tenant's successors-in-interest; (b) are not merely personal covenants of Tenant; and (c) the benefits shall inure to Landlord.

Section 11.14 No Waiver.

No waiver of any condition or agreement in this Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Lease Term will be deemed an acceptance of a surrender of the Demised Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the Base Rent, Additional Rent, or other charges or fees due as stipulated in this Lease will be deemed to be anything other than a payment on account of the same, and to the earliest due of the same. No endorsement or statement on any check, or any letter accompanying any check or payment as rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or to pursue any other remedy available to Landlord. If this Lease is assigned, or if the Demised Premises or any part thereof is sublet or occupied by anyone other than Tenant or permitted sublessees (if any), Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this Lease against assignment and subletting, or the acceptance of the assignee, subtenant, or occupant as Tenant, or a release of Tenant from the complete performance by Tenant of its covenants in this Lease.

Section 11.15 Counterparts.

This Agreement may be executed in counterparts and all such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

(The remainder of this page has been intentionally left blank.)

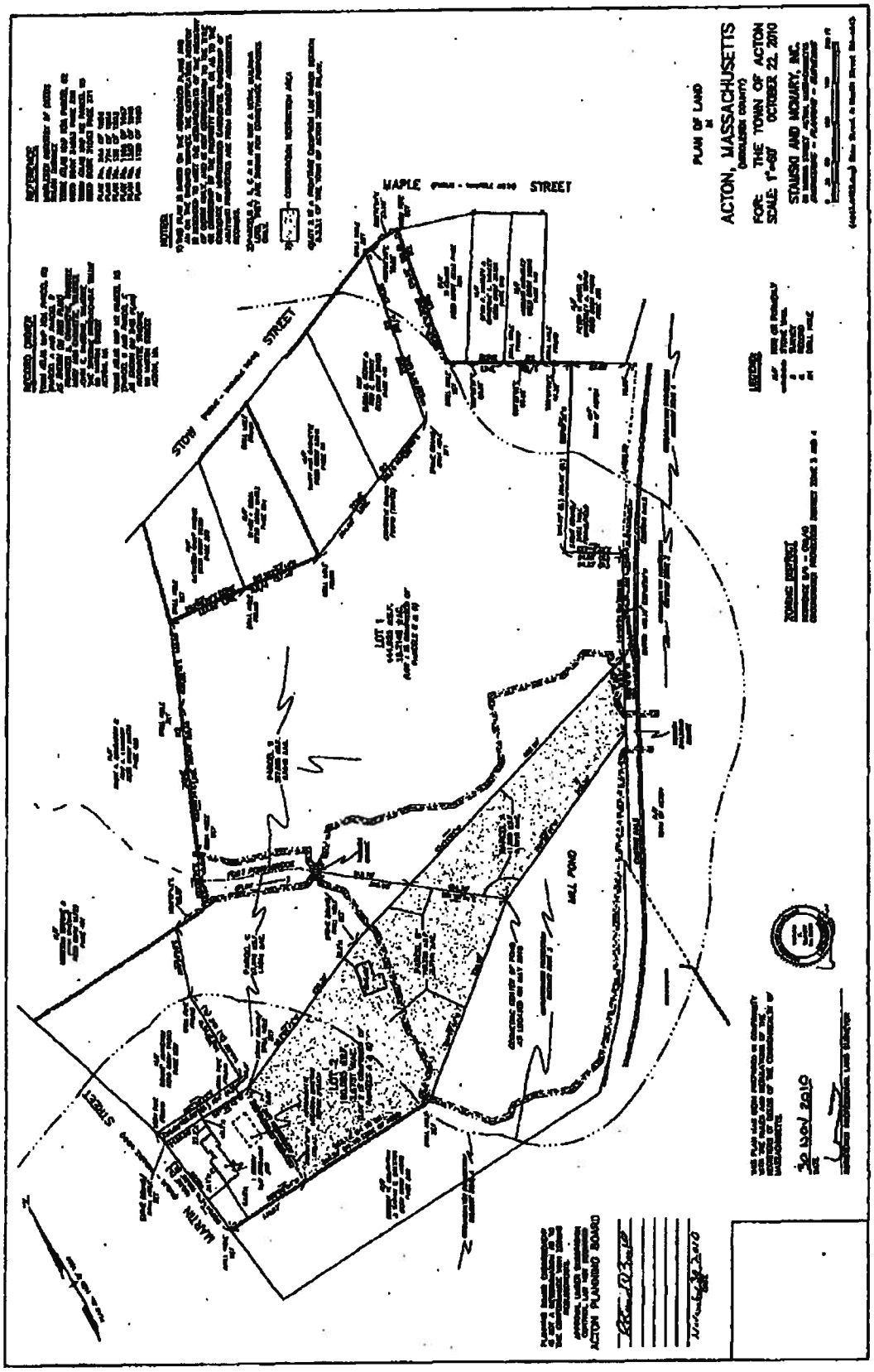
WITNESS the execution hereof, under seal, in any number of counterpart copies, each of which counterpart copies shall be deemed to be an original for all purposes as of the day and year first above written.

TENANT:

By:_____

LANDLORD:
Town of Acton

By:_____
Steven Ledoux, Town Manager


PLAN OF LAND
IN
ACTON, MASSACHUSETTS
(MIDDLESEX COUNTY)
FOR: THE TOWN OF ACTON
SCALE: 1"=40' OCTOBER 22, 2010
STAMSKI AND MCNARY, INC.
MAPLE STREET
STOW STREET
MILL POND
LOT 1
ACTON PLANNING BOARD

TOWN OF ACTON
472 MAIN STREET
ACTON, MASSACHUSETTS, 01720

TOWN CLERK

Exhibit C:
Town Meeting Approval Vote

EXCERPT OF THE SPECIAL TOWN MEETING HELD
MONDAY, OCTOBER 25, 2010, 7:00 P.M.
ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM
NUMBER OF REGISTERED VOTERS ATTENDING TOWN MEETING
OCTOBER 25, 2010 - 424

ARTICLE 1 **SUPPLEMENTAL APPROPRIATION –**
(Two-thirds vote) **SIMEONE-CAOUETTE PROPERTY PURCHASE**

To see if the Town will vote to raise, appropriate or transfer from free cash or other available funds, or accept gifts for this purpose, the difference between one million dollars and the maximum allowable amount of Community Preservation Act Funds previously appropriated under Article 24(K) of the Acton 2010 Annual Town Meeting and which can permissibly be used for the Open Space Acquisition of the Caouette Land (the "Property"), together with such additional funds as may be necessary to effectuate the closing on the purchase of the Property, or take any other action relative thereto.

MOTION: **Mr. Gowing** moves that the Town transfer from Free Cash and appropriate $170,000 for the purpose of supplementing the available appropriation of Community Preservation Act funds under Article 24(K) of the 2010 Annual Town Meeting toward the purchase of the Property authorized under Article 25 of the 2010 Annual Town Meeting.

Moderator called for teller count.

In favor – 381 Opposed – 43

MOTION CARRIES BY MORE THAN 2/3 VOTE.

TOWN OF ACTON
472 MAIN STREET
ACTON, MASSACHUSETTS, 01720
TELEPHONE (978) 929-6620
FAX (978) 264-9630
clerk@acton-ma.gov

TOWN CLERK

EXCERPT OF THE SPECIAL TOWN MEETING HELD
TUESDAY, OCTOBER 12, 2010, 7:00 P.M.
ACTON-BOXBOROUGH REGIONAL HIGH SCHOOL AUDITORIUM
WITH ADJOURNED SESSIONS HELD OCTOBER 25, 2010
NUMBER OF REGISTERED VOTERS ATTENDING TOWN MEETING
OCTOBER 12, 2010 – 15 OCTOBER 25, 2010 - 424

ARTICLE 1 **ENVIRONMENTAL REMEDIATION, ETC. EXPENSES –**
(Majority vote) **SIMEONE-CAOUETTE PROPERTY**

To see if the Town will vote to raise, appropriate or transfer from free cash or other available funds, or accept gifts for this purpose, the following amounts:

(a) up to $200,000 to pay for any environmental assessment, containment, removal and/or remedial actions required, in the discretion of the Board of Selectmen, concerning the property previously approved for acquisition by the Town under Article 25 of the Acton 2010 Annual Town Meeting (the "Property");

(b) up to $34,000 to pay for environmental testing and remediation recommendations for the Property in accordance with the Town's Request for Proposals issued on August 6, 2010; and

(c) up to $22,500 to pay for any extensions of the July 13, 2010 closing date that the Board of Selectmen deem necessary in their discretion as provided under the Fourth Amendment to Purchase and Sale Agreement dated as of July 13, 2010 and executed by the Town of Acton and the owners of the Property or otherwise;

or take any other action relative thereto.

MOTION: **Mr. Gowing** moves that the Town transfer from Free Cash and appropriate $256,500 to fund the environmental and transaction costs all as set forth in paragraphs (a) through (c) of the article, including any project costs incidental and related thereto.

MOTION CARRIES UNANIMOUSLY