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Recorded: 10/31/2018 11:53 AM

**Grantor:** Patricia Lee Lewis

**Primary Grantee:** Hilltown Land Trust, Inc.

**Secondary Grantee:** Westhampton Conservation Commission  
Chesterfield Conservation Commission

**Address of Premises:** 292 Chesterfield Road, Westhampton, MA 01027

**Title Source:** Hampshire County Registry of Deeds Book 11424, Page 272 and  
Book 4796, Page 258

#### **GRANT OF CONSERVATION RESTRICTION**

I, **Patricia Lee Lewis** of 292 Chesterfield Road, Westhampton, Hampshire County, Massachusetts, being the sole owner of the entire fee simple interest in the property, individually and for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws (M.G.L.) and the Internal Revenue Code of 1986, 26 U.S.C. 170(h), as amended ("the Code"), do hereby grant, with QUITCLAIM COVENANTS, as a charitable gift to **Hilltown Land Trust, Inc.** with an office at 332 Bullitt Road, Ashfield, Massachusetts 01330, a Massachusetts nonprofit corporation having the authority to acquire and hold interests in land in accordance with M.G.L. Chapter 184, Section 32, and being a "qualified organization" as defined in the Code at 1.170A-14(c), its successors and permitted assigns (hereinafter the "Primary Grantee") and the **Town of Westhampton acting by and through its Conservation Commission** by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with an address of 1 South Road, Westhampton, MA 01027, its permitted successors and assigns, for the portion of the Premises located in Westhampton, and the **Town of Chesterfield acting by and through its Conservation Commission** by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with an address of 422 Main Road, Chesterfield MA 01012, its permitted successors and assigns, for the portion of the Premises located in Chesterfield (hereinafter the "Secondary Grantees") (collectively, the Primary Grantee and the Secondary Grantees are referred to hereinafter as the "Grantees"), this Conservation Restriction, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, pursuant to the provisions of Chapter 184, Sections 31-33 of the Massachusetts General Laws, and the Internal Revenue Code of 1986, 26 U.S.C. 170(h), as amended, on an approximately 69.146-acre portion of two parcels of land, located in Westhampton and Chesterfield, Hampshire County, Massachusetts, more particularly described in Exhibit A and a Survey prepared for Hilltown Land Trust recorded at Plan Book 243, Page 10, a reduced copy of which is attached hereto as Exhibit B ("Premises"). Unless otherwise provided, the term "Grantee" as used herein shall apply to the Primary Grantee.

## I. PURPOSE

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition and to prevent any use or change that would materially impair or interfere with its conservation and preservation values herein described ("Conservation Values").

Conservation Land Tax Credit (CLTC) Program: the Premises was acquired utilizing, in part, the Conservation Land Tax Credit Program authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

The Conservation Values of the Premises include the following:

- A. Protection of Wildlife Habitat. The entire Premises is part of an extensive, forest block containing diverse wildlife habitat and open space within the meaning of the Code. The entire property is identified as BioMap 2<sup>1</sup> Critical Natural Landscape by the Massachusetts Natural Heritage and Endangered Species Program and provides habitat for wide-ranging native species including grouse, turkey, migratory songbirds, birds of prey, deer, bear, coyote, beaver, turtles, amphibians, and reptiles.
- B. Prime Forests. Nearly the entire property is classified by the USDA Department of Natural Resources Conservation Service as Prime 2 Forest Land, meaning the land exhibits soil, topography, land cover, and other characteristics, the combination of which has the potential to produce a forest classified by the Department of Natural Resource Conservation at the University of Massachusetts, Amherst as 'Prime 2' for its timber production potential.
- C. Climate Change Resilience. The property is noted for its climate change adaptation and resilience characteristics, particularly its calcareous soils and role in maintaining connectivity among in-tact wildlife habitat.<sup>2</sup>

The protection of the above enumerated Conservation Values is in fulfillment of, and consistent with the corresponding conservation purposes that are required to be protected under the Code.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("BDR") prepared by the Primary Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Primary Grantee and Secondary Grantees and referenced herein. The BDR (i) is acknowledged by Grantor and Grantees to be a complete and accurate representation

<sup>1</sup> BioMap2 is a geographic system of identification of lands of importance to a diversity of species and ecosystems, published by the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program, and The Nature Conservancy, in 2010.

<sup>2</sup> The Nature Conservancy, Resilient and Connected Landscapes data, October, 2016.

of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the BDR, should the BDR be unavailable or if it does not adequately address the issues presented.

## **II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO; and PERMITTED USES:**

### **A. Prohibited Acts and Uses.**

Subject to the exceptions set forth in Section B of this Article II (Permitted Uses and Exceptions to Otherwise Prohibited Acts and Uses), the Grantor will neither perform nor allow others to perform the following acts and uses which are hereby prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, impervious pavement, road, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line, underground storage tank, or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises any soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area, or withdrawing any surface or ground water from the Premises.
- (3) Placing, filling, storing or dumping of any soil, refuse, trash, sand, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever.
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation.
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation.
- (6) Use, parking or storage of vessels or vehicles including but not limited to motorcycles, mopeds, motorized trail bikes, all-terrain vehicles, boats, automobiles, trucks, and all other motorized vessels or vehicles, except for vehicles necessary for public safety (i.e. police, fire ambulance, other government officials) in carrying out their lawful duties or as necessary for the mobility impaired.
- (7) 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 including transferring any development rights from the Premises to any other location. Grantor may subdivide and

convey the excluded portion of the property separately from the premises encumbered by this Conservation Restriction.

- (8) The use of the Premises for more than *de minimis* commercial recreation, residential or industrial use.
- (9) Intentionally planting or introducing any species prohibited by federal and/or state laws and regulations, such as species identified in "Massachusetts Prohibited Plant List," published by the Massachusetts Department of Agricultural Resources, Division of Regulatory Services, or any successor list of similar character.
- (10) Using the Premises as a site for any sanitary sewage or other wastewater disposal system serving any residence or other structure, wherever located.
- (11) Any other use of the Premises or activity which is inconsistent with the purposes of this Conservation Restriction or that would materially impair its Conservation Values.

**B. Permitted Uses and Exceptions to Otherwise Prohibited Acts and Uses.**

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) Permits. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with current zoning, the Wetlands Protection Act, and 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 does not imply that the Grantees or the Commonwealth takes any position whether such permit should be issued.
- (2) Vegetation Management. Selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas, woods roads, fence lines and trails, and meadows.
- (3) Forestry and Cutting. Conducting or permitting others to conduct sound silvicultural uses of the Premises, including the right to commercially harvest timber and non-timber forest products (as such term may be defined from time to time in the Massachusetts General Laws Chapter 61, Section 1, or successor law), and the establishment of new woods roads, in accordance with prudent and sound silvicultural practices that conform at least to the minimum standards set forth in the Massachusetts Forest Cutting Practices Act (General Laws, Ch. 132, or its successor, hereinafter, the "FCPA") and, when such harvest will be in excess of 12,500 board feet and/or twenty-five (25) cords in any consecutive twelve (12) month period, carried out pursuant to a Forest Management Plan and a Forest Cutting Plan. The Forest Cutting Plan and Forest Management Plan shall be prepared by a forester licensed through the Massachusetts Department of Conservation and Recreation in conformance with the "Directions for the Preparation of the Chapter 61 Forest Management



Plans” and such statutes, regulations and directions in effect at the time of the approval of said Plans. These plans shall be submitted to the Primary Grantee, the Massachusetts Department of Conservation and Recreation (or appropriate successor agency) and to any other state agencies as required by law, for their approval prior to the commencement of any timber harvest. The Plans shall include provisions designed to minimize soil erosion, conserve surface and groundwater quality, wildlife habitat, and to protect the conservation values of this Conservation Restriction. Grantees acknowledge that sustainable timber harvests are consistent with the purposes of this Conservation Restriction.

The Forest Management Plan shall be effective for a ten (10) year period and shall be resubmitted once every ten (10) years as necessary if additional timber harvests will occur. All cutting plans and designated access routes shall avoid any stone structures or historical and cultural resources and shall be reasonably required to prevent any damage thereto. All cutting operations shall be supervised by a Massachusetts licensed forester that, when feasible, shall be the Massachusetts licensed forester who prepared the Forest Cutting Plan.

Harvesting for Personal Use: The cutting of trees, not to exceed 12,500 board feet or twenty-five (25) cords in any consecutive twelve (12) month period to provide non-commercial forest products for personal use is permitted provided that any such harvesting shall follow, to the extent possible, the required best management practices and the recommended guidelines pursuant to the Massachusetts Forestry Best Management Practices Manual (Catanzaro, Fish & Kittredge, 2013) and subsequent versions as may be approved by the Forestry Bureau.

- (4) Non-native or nuisance species. The removal of non-native or invasive species, the planting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.
- (5) Pond Management. The maintenance, improvement, repair and/ or abandonment of the existing pond, but not any enlargement to the existing pond, in the southwest corner of the Premises as shown in the BDR, and the associated dam and water management system, including the right (with the Grantee’s prior approval), to dredge the pond and place dredged material in a designated location on the Premises.
- (6) Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting can be located such that the presence of such activities will not materially impair the purposes (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Permitted Use shall take into account sensitive areas and avoid harm to nesting species during nesting season.
- (7) Wildlife Habitat Restoration. With the prior approval of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species.

- (8) Archaeological Investigations. The right to conduct archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only (a) after written notification to and approval by Grantee, and (b) in accordance with an archaeological field investigation plan prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the MHC State Archaeologist as required by Massachusetts General Laws. A copy of the results of any scientific investigation on the Premises is to be provided to the Grantee. Plans for restoration of the site of any archaeological activity shall be submitted to the Grantee in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by the Grantee.

Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features, shall not be deemed to be detrimental to archeological and historic resources if a description of the proposed activity and its location is submitted in writing (e.g., on a Project Notification Form) with a plan of land (or assessors map) and a USGS map with the Premises outlined thereon, to Massachusetts Historic Commission ("MHC") and MHC issues a letter stating that the proposed activity is not within a resource area or is determined to not have an adverse effect on said resources. Grantor and Grantee shall make every reasonable effort to prohibit any person from conducting archaeological field investigation on the Premises, including metal detecting, digging, or artifact collecting, without approval of the MHC State Archaeologist (or appropriate successor official), and shall promptly report any such prohibited activity to the MHC State Archaeologist (or appropriate successor official). Grantor and Grantee shall include the prohibition against digging, artifact collecting, or metal detecting in any list of rules for visitors to the Premises.

- (9) Trails, Woods Roads, Fences, etc.

- a. The marking, clearing, and maintenance of existing footpaths, footbridges, trails, fences, gates, stone walls, and permeable, unsurfaced woods and field roads documented in the BDR. With prior approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than 4 feet; and
- b. The clearing of suitable areas for timber roads, landings and sorting yards in accordance with the Forest Management and Forest Cutting Plans (a copy of which is furnished to the Grantee prior to the commencement of work) required by Article II(B)(3); and
- c. The use of Moose Meadow Road, an existing woods road, only for the purpose of vehicular access to a cabin known as Hermit's Hut and surrounding land which is excluded from this Conservation Restriction; and
- d. The use of Pond Road, an existing woods road, for occasional vehicular access as needed to maintain the Pond and mow the nearby meadows located on the Premises.

- (10) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, hunting, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the protected Conservation Values; Forestry and other

permitted uses. Any signs larger than 11" x 17" require prior Grantee approval pursuant to Section II(C), "Notice and Approval."

- (11) Passive Outdoor Recreational Activities. Fishing, hunting, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities by Grantor, Grantor's agents, representatives, and invitees, that do not materially alter the landscape, materially harm the Conservation Values, and do not degrade environmental quality.
- (12) Motor Vehicles. The use of motorized vehicles on the Premises only as necessary to carry out activities permitted under this Article III. B, provided that use is kept to existing (or later-approved) trails and woods roads to the extent possible, and that such use does not materially impair the Conservation Values of this Conservation Restriction.
- (13) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph B shall follow established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

- C. Notice and Approval. Whenever notice to or approval by the Grantee is required, Grantor shall notify Grantee in writing by a method requiring proof of receipt, not less than 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 enable the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's written 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 within 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, the requested activity is not prohibited herein, and the activity will not materially impair the Conservation Values or purposes of this Conservation Restriction.

Hilltown Land Trust is the Primary Grantee for this Conservation Restriction with the Westhampton Conservation Commission acting as Secondary Grantee for the portion of the Premises in Westhampton and the Chesterfield Conservation Commission acting as the Secondary Grantee for the portion of the Premises in Chesterfield.

### III. LEGAL REMEDIES OF GRANTEES

- A. Legal and Injunctive Relief  
The rights hereby granted to the Grantees shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain immediate 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 hereby acknowledged that Grantees 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 Grantees for the enforcement of this Conservation Restriction. Grantees agree 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 Grantees determine there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantees all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked. Grantees agree that they shall not duplicate enforcement efforts and shall make every effort to cooperate with each other and to act jointly.

**B. Non-Waiver.**

Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantees. Any election by the Grantees 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 Grantees do 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 Grantees or their agents.

**D. Acts Beyond Grantor's Control.**

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees 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. In the event of any such occurrence, the Grantor and Grantees will cooperate in the restoration of the Premises, if desirable and feasible.

Nothing herein should be construed to preclude or limit Grantor's and/or Grantees rights to recover damages from any third party for trespass or other violation of their respective rights in this Conservation Restriction and in the Premises. Each party hereby acknowledges the other's standing to pursue such damages, and each party is obligated hereby to cooperate with the other's action to recover such damages.



#### IV. Access

The Grantor hereby grants to the Grantees, or their 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 Grantees, 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 necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

#### V. Extinguishment

- A. **Impossibility:** If circumstances arise in the future such as 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 a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs or successor official. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantees, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with paragraph B below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements Grantees shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.
- B. **Proceeds.** Grantor and Grantees agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantees, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction determined at the time of the gift by a qualified appraisal as defined in Treas. Reg. Sec. 1.170A-13(c)(3), bears to the value of the unrestricted Premises at that time. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements. Between the Grantees, any proceeds shall be proportioned equally.
- C. **Grantor/Grantee Cooperation Regarding Public Action.** Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, 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 Grantees in accordance with paragraph V. B – above, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantees shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant or similar purposes elsewhere.

In the event of extinguishment or taking by public authority, the provisions of this Section V. B. shall survive such extinguishment or taking.

## **VI. ASSIGNABILITY**

A. Running of the Burden. The burdens 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.

B. 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; the Grantor, on behalf of herself and her successors and assigns, appoint the Grantee her attorney-in-fact to execute, acknowledge and deliver any such instruments on her behalf. Without limiting the foregoing, the Grantor and her successors and assigns agree to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantees, except in the following instances:

As a condition of any assignment, the Grantees shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) 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.

## **VII. SUBSEQUENT TRANSFERS**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above 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 the Grantor's 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.

### **VIII. Estoppel Certificates.**

Upon request by Grantor, Grantees shall within forty-five (45) days execute and deliver to Grantor any document, including an estoppel certificate, that certifies the status of Grantor's compliance or non-compliance with any obligation of Grantor contained in this Conservation Restriction, or that otherwise evidences the status of this Conservation Restriction, as may reasonably be requested by Grantor.

### **IX. 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 a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

### **X. 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 M.G.L. have been obtained, and it has been recorded in the Hampshire County Registry of Deeds in a timely manner.

### **XI. Notices**

Any notice, 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 with receipt or sent by first class mail, postage pre-paid and receipt requested, addressed to the party to be notified, in the case of the Grantor, at the address last known to the Grantee.

In the case of the Grantee, notice shall be addressed to:

Hilltown Land Trust, Inc.  
332 Bullitt Road  
Ashfield Massachusetts 01330

and

Westhampton, Conservation Commission  
Town Hall  
1 South Road  
Westhampton, MA 01027

Chesterfield Conservation Commission

P.O. Box 299

422 Main Road

Chesterfield, MA 01012

or as Grantees shall otherwise direct in writing to the Grantor.

## **XII. 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 purpose of Chapter 184, Sections 31, 32, and 33 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, an 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 this Conservation Restriction, all of which are merged herein.

## **XIII. Miscellaneous**

- A. Pre-existing rights of the Public. Approval of this Conservation Restriction pursuant to Chapter 184, Section 32 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. Any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- B. Homestead. The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this



Conservation Restriction, pursuant to Chapter 188 Section 10(e) of the Massachusetts General Laws.

- C. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

- D. Attached hereto and incorporated herein are the following:

Signature pages:

Grantor: Patricia Lee Lewis

Grantees Hilltown Land Trust, Inc. and

Westhampton Conservation Commission

Chesterfield Conservation Commission

Approval of Select Board of Westhampton

Approval of Select Board of Chesterfield

Approval of the Secretary of Energy and Environmental Affairs

Exhibit A – Legal Description of Premises

Exhibit B – Reduced Copy of Plan of Premises

Executed under seal this 15 day of OCTOBER, 2018

Patricia Lee Lewis

Patricia Lee Lewis

THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

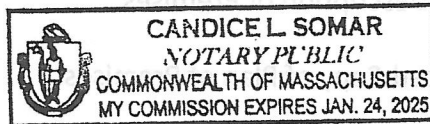
10 / 15, 2018

On this 15<sup>th</sup> day of October, 2018, before me, the undersigned notary public, personally appeared Patricia Lee Lewis, proved to me through satisfactory evidence of identification, which was MA DL, to be the person whose name is signed above, and acknowledged to me that he signed this document voluntarily for its stated purpose, before me,

Candice L. Somar

Notary Public

My commission expires 1/24/2025



ACCEPTANCE OF GRANT

The above Conservation Restriction from Patricia Lee Lewis was accepted by the Hilltown Land Trust, Inc. this 17<sup>th</sup> day of October, 2018.

HILLTOWN LAND TRUST, INC.

By Marie E. Burkart  
Its President, duly authorized

By: [Signature]  
Its Treasurer, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

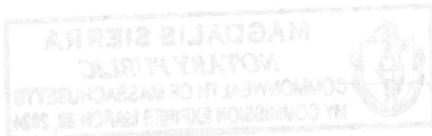
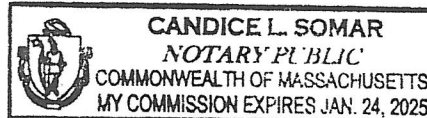
10 / 18, 2018

On this 18<sup>th</sup> day of Oct, 2018, before me, the undersigned notary public, personally appeared Marie Burkart and \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was MADL, to be the persons whose name is signed above, and acknowledged to me that they signed it voluntarily for its stated purpose as President and Treasurer of Hilltown Land Trust, Inc., before me,

[Signature]

Notary Public

My commission expires 1/24/2025



ACCEPTANCE OF GRANT BY WESTHAMPTON CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Westhampton, Massachusetts, hereby certify that at a public meeting duly held on 10/3/18, 2018, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from Patricia Lee Lewis pursuant to Massachusetts General Laws, Chapter 184, Section 32 and Chapter 40 Section 8(C) and do hereby accept the foregoing Conservation Restriction.

WESTHAMPTON CONSERVATION COMMISSION

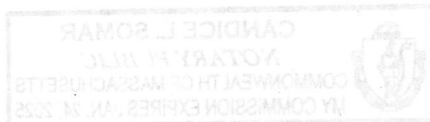
[Signature]  
[Signature]  
[Signature]

THE COMMONWEALTH OF MASSACHUSETTS

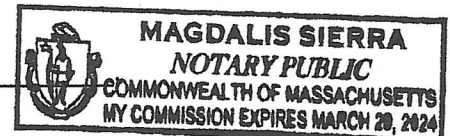
Hampshire, ss.

Oct 10, 2018

On this 10 day of Oct, 2018, before me, the undersigned notary public, personally appeared Robert A. Lapalme proved to me through satisfactory evidence of identification, which was MADL, to be the person whose name is signed above, and acknowledged to me that s/he signed it voluntarily for its stated purpose on behalf of the Westhampton Conservation Commission, before me,



Notary Public  
My commission expires





ACCEPTANCE OF GRANT BY CHESTERFIELD CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Chesterfield, Massachusetts, hereby certify that at a public meeting duly held on Oct 15, 2018, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from Patricia Lee Lewis pursuant to Massachusetts General Laws, Chapter 184, Section 32 and Chapter 40 Section 8(C) and do hereby accept the foregoing Conservation Restriction.

CHESTERFIELD CONSERVATION COMMISSION

Amel C. Pichell  
David J. Grover  
John S. Follet

THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

October 15, 2018

On this 15<sup>th</sup> day of October, 2018, before me, the undersigned notary public, personally appeared John S. Follet, proved to me through satisfactory evidence of identification, which was personally known, to be the person whose name is signed above, and acknowledged to me that s/he signed it voluntarily for its stated purpose on behalf of the Chesterfield Conservation Commission, before me,



Susan M. Labrie

Notary Public

My commission expires August 1, 2019

# APPROVAL OF WESTHAMPTON SELECTBOARD

We, the undersigned, being a majority of the Select Board of the Town of Westhampton, Massachusetts, hereby certify that at a public meeting duly held on October 1, 2018, the Select Board voted to approve the foregoing Conservation Restriction from Patricia Lee Lewis to Hilltown Land Trust, Inc., the Town of Westhampton acting by and through its Conservation Commission, and the Town of Chesterfield acting by and through its Conservation Commission, in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Selectboard Members

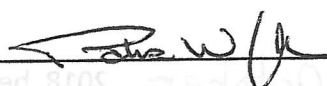
  
Maureen Dempsey

THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

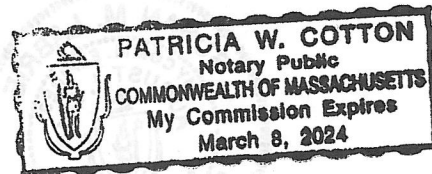
October 1, 2018

On this 1<sup>st</sup> day of October, 2018, before me, the undersigned notary public, personally appeared, Maureen Dempsey, and Phil Devine & Arthur Pichette, proved to me through satisfactory evidence of identification, which was known to me, to be the persons whose names are signed above, and acknowledged to me that they signed it voluntarily for its stated purpose as members of the Selectboard.



Notary Public

My commission expires 3/8/2024



APPROVAL OF CHESTERFIELD SELECT BOARD

We, the undersigned, being a majority of the Select Board of the Town of Chesterfield, Massachusetts, hereby certify that at a public meeting duly held on September 4, 2018, 2018, the Select Board voted to approve the foregoing Conservation Restriction from Patricia Lee Lewis to Hilltown Land Trust, Inc., the Town of Westhampton acting by and through its Conservation Commission, and the Town of Chesterfield acting by and through its Conservation Commission, in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Select Board Members

[Signature]  
[Signature]  
Patricia P. Olson-Montgomery

THE COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

September 4, 2018

On this 4<sup>th</sup> day of September, 2018, before me, the undersigned notary public, personally appeared Robert W. Recos, Roger A. Fuller, and Patricia Colson-Montgomery proved to me through satisfactory evidence of identification, which was personally known, to be the persons whose names are signed above, and acknowledged to me that they signed it voluntarily for its stated purpose as members of the Select Board.



Susan M. Labrie  
Susan M. Labrie  
Notary Public  
My commission expires 8/1/19.

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
THE COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Patricia Lee Lewis to Hilltown Land Trust, Inc., the Town of Westhampton acting by and through its Conservation Commission, and the Town of Chesterfield acting by and through its Conservation Commission, has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32. Any proposed modification, release, or partial release to this conservation restriction must be approved by the then-acting Secretary of EOEEA in accordance with MGL c. 184 Section 32 and the then-current EOEEA policy that maintains the Conservation Values of the Conservation Restriction.

Date: 10/19, 2018

Matthew A. Beaton  
Matthew A. Beaton  
Secretary of Energy & Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

October 19, 2018

On this 19<sup>th</sup> day of October, 2018, before me, the undersigned notary public, personally appeared Matthew A. Beaton, proved to me through satisfactory evidence of identification, which was MA Driver's License, to be the person whose names is signed above, and acknowledged to me that he signed it voluntarily for its stated purpose as Secretary of Energy and Environmental Affairs, before me,

Denise Pires

Notary Public

My commission expires 12/28/23

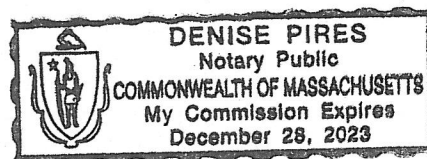




Exhibit B

### Exhibit A

The land in Chesterfield and Westhampton, Hampshire County, Massachusetts, located on the southwesterly side of East Street in Chesterfield and the southwesterly side of Chesterfield Road in Westhampton, being the same land shown on a plan titled "Conservation Restriction Plan of Land in Westhampton and Chesterfield (Hampshire CO), Massachusetts, prepared for Hilltown Land Trust," dated October 22, 2018, recorded at Plan Book 243, Page 10, Hampshire County Registry of Deeds. A reduced copy of the plan referenced above is attached hereto as Exhibit B.

For title see deed from Patricia Lee Lewis and Don Wukasz to Patricia Lee Lewis dated August 15, 2013, recorded at Book 11424, Page 272 and deed from Henry E. Simken and Joan L. Weigle to Patricia Lee Lewis dated December 20, 1995, recorded at Book 4796, Page 258.

