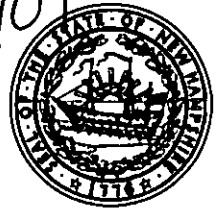




The State of New Hampshire  
**Department of Environmental Services**

**Robert R. Scott, Commissioner**

April 16, 2020



His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Environmental Services to award a grant to the Upper Saco Valley Land Trust (hereinafter "USVLT"), (VC#265745-R001), North Conway, NH in the amount of \$29,550 to acquire approximately 399 acres of conservation easements and land in the Town of Albany to protect drinking water supply, effective upon Governor & Council approval through June 30, 2021. 100% Drinking Water/Groundwater Trust Fund.

Funding is available in the following account:

03-44-44-442010-3904-073-500580	<u>FY 2020</u>
Dept Environmental Services, DWGW Trust, Grants Non-Federal	\$29,550

**EXPLANATION**

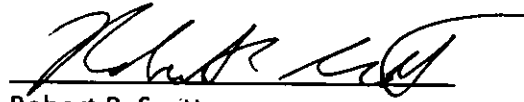
The Drinking Water and Groundwater Trust Fund (DWGTF) was created in 2016, using \$276 million of MtBE trial judgment funds, as authorized by RSA 485-F. The purpose of the Trust Fund is to provide sustainable, long-term funding for the protection, preservation, and enhancement of the drinking water and groundwater resources of the state. The Drinking Water and Groundwater Advisory Commission was established to administer the Trust Fund and to provide guidance to the State on the use of the Trust Fund.

On December 1, 2018, the Advisory Commission voted to authorize grants for 15 drinking water source protection projects. USVLT's request for \$29,550 was selected for grant funding from the DWGTF. USVLT will use the grant funds to acquire approximately 399 acres of conservation easements and land, approximately 7 acres of which is within the wellhead protection area of Piper Meadows Mobile Home Park and 54 acres of which overlies a high-yield stratified-drift aquifer, a potential high-value future drinking water supply source.

The total cost for USVLT to acquire the conservation easements and land is \$447,496. The DWGTF will provide \$29,550 with \$417,946 in match provided by USVLT. The purchase price of these conservation easements and land is based on a recent appraisal of fair market value.

Exhibit A describes the scope of the grant. Exhibit B provides the grant amount and payment terms and Exhibit C contains special provisions. Attachment A contains the conservation easement deed. The Attorney General's office has approved the attached draft deed as to form and substance, and will approve the actual deed as to execution. Attachment B contains a map of the land, which shows the land's relationship to the water supply source being protected.

We respectfully request your approval.

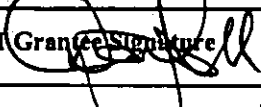
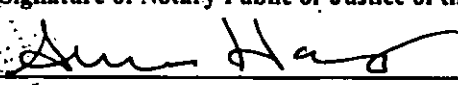
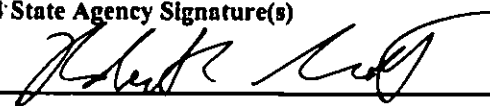

  
Robert R. Scott  
Commissioner

**Subject: Grant Agreement for a NH Drinking Water and Groundwater Trust Fund Grant**  
**GRANT AGREEMENT**

The State of New Hampshire and the Grantee hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATIONS**

<b>1.1 State Agency Name</b> NH Department of Environmental Services		<b>1.2 State Agency Address</b> 29 Hazen Drive, Concord, NH 03302-0095	
<b>1.3 Grantee Name:</b> Upper Saco Valley Land Trust		<b>1.4 Grantee Address</b> P.O. Box 424, North Conway, NH 03860	
<b>1.5 Effective Date</b> Upon G&C approval	<b>1.6 Completion Date</b> 6/30/2021	<b>1.7 Audit Date</b> N/A	<b>1.8 Grant Limitation</b> \$29,550
<b>1.9 Grant Officer for State Agency</b> Holly Green NH Department of Environmental Services		<b>1.10 State Agency Telephone Number</b> (603) 271-3114	
<b>1.11 Grantee Signature</b> 		<b>1.12 Name &amp; Title of Grantee Signor</b> Douglas C. Burnell, President	
<b>1.13 Acknowledgment:</b> State of <u>New Hampshire</u> , County of <u>Carrall</u>  On <u>02/04/2020</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
<b>1.13.1. Signature of Notary Public or Justice of the Peace</b> (Seal) 		<b>Alison Harris</b> <b>NOTARY PUBLIC</b> State of New Hampshire My Commission Expires 1/08/2025	
<b>1.13.2 Name &amp; Title of Notary Public or Justice of the Peace</b> Alison Harris			
<b>1.14 State Agency Signature(s)</b> 		<b>1.15 Name/Title of State Agency Signor(s)</b> Robert R. Scott, Commissioner	
<b>1.16 Approval by Attorney General's Office (Form, Substance and Execution)</b> By:  Attorney, On: <u>4/20/2020</u>			
<b>1.17 Approval by the Governor and Council</b> By: _____ On: <u>  /  /  </u>			

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

5. **GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.** In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with,

the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. **DATA; RETENTION OF DATA; ACCESS.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 give the Grantee a written notice specifying the Event of

Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

## **12. TERMINATION.**

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. **CONFLICT OF INTEREST.** No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. **GRANTEE'S RELATION TO THE STATE.** In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. **ASSIGNMENT AND SUBCONTRACTS.** The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. **INDEMNIFICATION.** The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted

against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

## **17. INSURANCE AND BOND.**

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice has been received by the State.

18. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. **AMENDMENT.** This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

## **21. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees.

The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. **THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

## EXHIBIT A

### SCOPE OF SERVICES

#### Upper Saco Valley Land Trust

Upper Saco Valley Land Trust (USVLT) will use the grant to acquire approximately 399 acres of conservation easements and land, approximately 7 acres of which is within the wellhead protection area of Piper Meadows Mobile Home Park and 54 acres of which overlies a high-yield stratified drift aquifer. USVLT will hold the conservation easement. The parcels designated on current Albany Tax Map 5 Lots 5, 6, 17, 18, and 25 and Albany Tax Map 3 Lots 46 and 49 will be protected in perpetuity, as specified in a draft conservation easement deed (see Attachment A), with water supply protection being one of the purposes of the conservation easement.

## EXHIBIT B

### GRANT AMOUNT & PAYMENT SCHEDULE

Payment in the amount of \$29,550 shall be made to USVLT upon receipt of the following:

1. Survey of the parcel of land.
2. A copy of the appraisal.
3. Title examination.
4. Acceptable stewardship plan for the property that ensures the permanent protection of the water supply.
5. Completed baseline documentation form, which indicates the current condition of the property.
6. Documentation to support the match of \$417,946 provided by USVLT.
7. The finalized conservation easement deed with restrictions to protect water supply.

Grantee Initials

Date


  
2/4/2020

EXHIBIT C

SPECIAL PROVISIONS

1. Subparagraph 1.7 of the General Provisions shall not apply to this Grant Agreement.

Grantee Initials QCB  
Date 2/4/2020

# State of New Hampshire

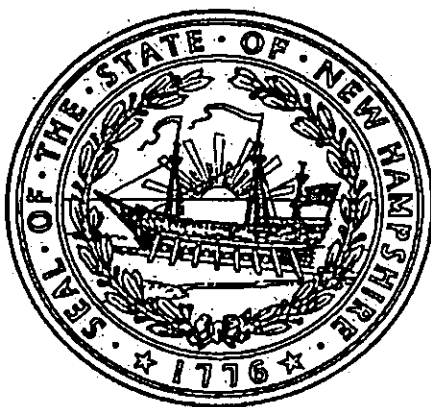
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that UPPER SACO VALLEY LAND TRUST is a New Hampshire Nonprofit Corporation registered to transact business in New Hampshire on September 15, 2000. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 359278

Certificate Number: 0004382923



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 18th day of January A.D. 2019.

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner  
Secretary of State




## CERTIFICATE of AUTHORITY

I, Richard Jenkinson, Secretary of the Upper Saco Valley Land Trust, do hereby certify that:

1. I am the duly elected Secretary of the Upper Saco Valley Land Trust;
2. At the meeting held on December 16, 2019, the Upper Saco Valley Land Trust Board of Directors ("Board") voted to accept funds from the NH Drinking Water and Groundwater Trust Fund and to enter into a contract with the NH Department of Environmental Services for the World Fellowship Center project;
3. The Board further authorized the President of the Upper Saco Valley Land Trust to execute any documents that may be necessary for this contract;
4. This authorization has not been revoked, annulled, or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and
5. The following person has been appointed to and now occupies the office indicated in (3) above:

<u>Doug Burnell</u>	<u>President</u>
Name	Title

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Upper Saco Valley Land Trust, on this date 2/12/2020.

<u></u>	<u>Secretary</u>
Signature of Certifying Officer	Title

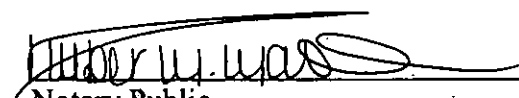
**STATE OF NEW HAMPSHIRE**

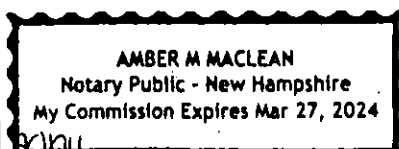
**County of Carroll**

On this date 12 February 2020, before me Richard Jenkinson III (Notary Public)

the undersigned officer, personally appeared, Richard Jenkinson, who acknowledged himself to be the Secretary of the Upper Saco Valley Land Trust, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.

  
Notary Public

  
03/18/2024  
My Commission Expires:



UPPESAC-01

AHILL

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
07/22/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> License # 0C36861 Chantilly-Alliant Ins Svc Inc. 4530 Walney Rd Ste 200 Chantilly, VA 20151-2285	<b>CONTACT</b> Anna Hill <b>NAME:</b> <b>PHONE</b> (A/C, No, Ext): (703) 397-0977 <b>FAX</b> (A/C, No): (703) 397-0995 <b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Federal Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
<b>INSURED</b>  Upper Saco Valley Land Trust PO Box 424 North Conway, NH 03860	<b>NAIC #</b> 20281	

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			36059919	08/01/2019	08/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included
A	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			36059919	08/01/2019	08/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> RETENTION \$			93651061	08/01/2019	08/01/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	71777114	08/01/2019	08/01/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Directors & Officers			8259-8764	08/01/2019	08/01/2021	Each Year \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

## CERTIFICATE HOLDER

## CANCELLATION

Evidence of Insurance

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

## **Attachment A – Deed and Deed Restrictions**

THIS IS A CONVEYANCE TO THE STATE OF NEW HAMPSHIRE  
AND IS EXEMPT FROM THE NEW HAMPSHIRE  
REAL ESTATE TRANSFER TAX PURSUANT TO NEW HAMPSHIRE RSA 78-B:2, I.  
IT IS ALSO EXEMPT FROM THE LCHIP SURCHARGE PER RSA 478:17-g II (a)

**DEED OF CONSERVATION EASEMENT -  
WHITTON POND & CHOCORUA BIRCHES &  
DEED RESTRICTIONS ON SELECT ABUTTING EXCLUSION AREAS**

BY THIS DEED OF CONSERVATION EASEMENT, given this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the **NEW HAMPSHIRE WORLD FELLOWSHIP CENTER, INC.**, having a mailing address of PO Box 2280, Conway, New Hampshire, 03818 (hereinafter referred to as "**Grantor**" which word includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's legal representatives, Board of Trustees, administrators, successors and assigns),

for consideration paid, with **WARRANTY COVENANTS**, grants in perpetuity to

the **UPPER SACO VALLEY LAND TRUST**, a nonprofit corporation duly organized and existing under the laws of the State of New Hampshire, with a mailing address of Post Office Box 424, North Conway (03860), New Hampshire, having been determined by the Internal Revenue Service to be a 501(c)(3) income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code 170(h), (hereinafter referred to as the "**Grantee**" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns),

the Conservation Easement (hereinafter referred to as the "**Easement**" or "**Conservation Easement**") hereinafter described with respect to a certain tract of land (hereinafter referred to as the "**Protected Property**") consisting of 330.16 acres, more or less, with any improvements thereon, situated on Drake Hill Road in the Town of Albany, County of Carroll, State of New Hampshire, more particularly bounded and described in Appendix "A" attached hereto and made a part hereof, and as shown as "Area XXX" on a survey plan entitled "*Lands of the New Hampshire World Fellowship Center located in Albany, N.H.*" prepared by HEB Engineers, Inc., dated August XX, 2020, and recorded at Carroll County Registry of Deeds on even date herewith (hereinafter the "**Survey Plan**"), and on file with the N.H. Department of Environmental Services.

TOGETHER WITH a right-of-way for pedestrian and vehicular access to the Protected Property as necessary or appropriate to exercise the Grantee's rights hereunder, over and across any and all rights-of-way and roads benefitting the Grantor or over which Grantor has rights of access to the Protected Property, as more particularly described in Appendix "A";

AND, in aid of such Conservation Easement, the Deed Restriction hereinafter described in Section 24 with respect to those two certain areas of land with any and all buildings,

structures, and improvements thereon, as shown and identified on the Survey Plan as the "Waterfront Exclusion Area" (consisting of approximately 0.9 acres) and the "Campground Exclusion Area" (consisting of approximately 23.86 acres), as more particularly bounded and described in Appendices "B" and "C" attached hereto and made part hereof, while acknowledging that the Deed Restriction shall not encumber other named Exclusion Areas or other property owned by the Grantor as show on the Survey Plan (e.g., the Chocorua Birches Exclusion Area);

AND, pursuant to New Hampshire RSA 227-M, an Executory Interest, as further defined below, to the STATE OF NEW HAMPSHIRE with a principal place of business at 107 North Main Street, City of Concord, County of Merrimack, State of New Hampshire 03301 (referred to herein as the "Executory Interest Holder" or the "State");

AND, a Right of Enforcement, as further defined below, to the LAND AND COMMUNITY HERITAGE INVESTMENT PROGRAM, a not-for-profit corporation and public instrumentality of the State of New Hampshire, with a principal place of business at 3 North Spring Street, Suite 100, City of Concord, County of Merrimack, State of New Hampshire 03301 (referred to herein as "LCHIP");

Grantor and Grantee acknowledge that this Conservation Easement has been acquired in part with two separate grants administered by the New Hampshire Department of Environmental Services: an Aquatic Resource Mitigation (ARM) grant, as well as a financial assistance award from the New Hampshire Drinking Water and Groundwater Trust Fund (DWGTF). Per the terms of the DWGTF grant, uses of the property must be consistent with the purposes of New Hampshire RSA ch. 485-F. Specifically, the project protects against future contamination or impact to drinking water sources by allowing for the expansion of drinking water infrastructure or drinking water source protection. Further, this financial assistance confers a third-party right of enforcement, such that the State of New Hampshire, through the N.H. Department of Environmental Services, the N.H. Drinking Water and Groundwater Advisory Commission, or the N.H. Office of the Attorney General may enforce the restrictions found herein.

Grantor and Grantee acknowledge that this Conservation Easement has been acquired in part with a financial assistance award from the New Hampshire Land and Community Heritage Investment Program, which award places certain restrictions on the Protected Property as described herein, and continuing obligations on Grantee as described in a Grant Agreement recorded on even date herewith.

The specific Conservation Values of the Protected Property are more particularly documented in a **Baseline Documentation Report (BDR)**, prepared by the Grantee, and signed and acknowledged by the Grantor, which establishes the baseline condition of the Protected Property at the time this Conservation Easement is granted. The BDR consists of reports, maps, photographs, and other documentation that the Grantor and Grantee agree together provide an accurate representation of the Protected Property at the time of this Conservation Easement, and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Conservation Easement. The BDR shall be held by the

Grantee, with copies provided to the Grantor and LCHIP, and on file at the New Hampshire Department of Environmental Services, and is incorporated herewith by reference.

## ➤ SECTION 1 – CONSERVATION PURPOSES ◀

The Conservation Easement hereby granted is pursuant to New Hampshire RSA 477:45-47 and RSA 227-M, and in compliance with the New Hampshire Aquatic Resources Mitigation Fund Final In-lieu Fee Program Instrument (U.S. Army Corps of Engineers, New England District, Regulatory Division, File Number NAE-2005-1142), exclusively for the following Conservation Purposes (hereinafter collectively referred to as the “**Conservation Purposes**”) in the following order of priority:

A. The protection and conservation of undeveloped shoreline and associated natural habitats of the Protected Property, including the approximately 3,150 feet of great pond shoreline on Whitton Pond, which habitats lie within the relatively unfragmented Chain of Ponds landscape that links the White Mountain National Forest to Silver Lake;

B. The protection, conservation, and connectivity of the native biological diversity and natural habitats of the Protected Property, including rare plants (small-whorled pogonia), animals (nesting loons), and natural communities (Northern white cedar-hemlock-red maple swamp) as well as significant wildlife habitats and the ecological processes that sustain these natural heritage features as they exist on the date of the execution of this Conservation Easement and may evolve in the future with emphasis, in particular, on the approximately 79 acres of Highest Ranked Habitat in NH and 80 acres of Highest Ranked Habitat in the White Mountain region as described by New Hampshire’s 2015 Wildlife Action Plan;

C. The protection of the quality of ground and surface water and wetland resources on and under the Protected Property, and the restoration, protection, management, maintenance, and enhancement the functional values of wetlands, vernal pools, streams, riparian areas and other lands, and for the conservation of natural values including fish and wildlife and their habitat, ecological integrity of the water resources, water quality improvement, flood water retention, groundwater recharge, and open space, and for the prevention of any uses or activities detrimental to natural patterns and processes of drainage, retention (e.g. vernal pools), water conservation and flood and erosion control;

D. The protection of the productive soils of which the Protected Property consists including the long-term protection of the Protected Property’s capacity to produce economically valuable forestry and/or agricultural products;

E. The prohibition of any future development, construction, uses or practices that will significantly impair or interfere with the conservation values or interests of the Protected Property.

F. The protection of the land for low-impact outdoor pedestrian recreational and educational usage for such activities as hiking, snowshoeing, cross-country skiing, observance and study of flora and fauna, photography, and similar low-impact activities, so long as not inconsistent with other Conservation Purposes; and

G. The protection and conservation of open spaces and natural scenery for the enjoyment of the general public along Drake Hill Road and Old Colony Road, these being public roads upon which 8,200 feet more or less, of the Protected Property fronts;

All of these Conservation Purposes are consistent with and in accordance with the U.S. Internal Revenue Code Section 170(h).

## **> SECTION 2 – RECITALS <**

The following recitals more particularly describe the Conservation Values (hereinafter the “Conservation Values”) of the Protected Property and the public benefit of this grant.

**WHEREAS** the above Conservation Purposes are consistent with **New Hampshire (hereinafter “New Hampshire” or “N.H.”) RSA 79-A** which states:

It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state’s citizens, maintaining the character of the state’s landscape, and conserving the land, water, forest, and agricultural and wildlife resources.

**WHEREAS** the above Conservation Purposes are also consistent with **N.H. RSA 227-M**, which therein establishes the **New Hampshire Land and Community Heritage and Investment Program (LCHIP)** and states:

The intent of the program is to conserve and preserve this state’s most important natural, cultural and historical resources through the acquisition of lands, and cultural and historical resources, or interests therein, of local, regional, and statewide significance, in partnership with the state’s municipalities and the private sector, for the primary purposes of protecting and ensuring the perpetual contribution of these resources to the state’s economy, environment and overall quality of life.

**WHEREAS** the above Conservation Purposes are also consistent with the **2014 Master Plan of the Town of Albany “Planning for Future Land Use – The Vision for the Future”**, which states:

The town-wide survey that was completed in May of 2010 made the following very clear:

Residents and taxpayers want to preserve the rural character of the community  
Residents and taxpayers want to see limited future growth

... the survey, by wide margins, made it clear that both residents and taxpayers did not want to see much development on the remaining privately owned land.

WHEREAS, the Protected Property abuts or is proximate to two other properties subject to similar conservation easements granted by Grantor to Grantee on even date herewith (the "Abutting Protected Properties"), one of approximately 32.23 acres and another of approximately 36.23 acres;

WHEREAS, Kathryn "Kit" Hively Schmauch was instrumental in initiating World Fellowship's acquisition of forested lands and appreciation of the importance of the wilderness; this easement and two others on the Abutting Protected Properties shall be called the Kathryn "Kit" Hively Schmauch Conservation Easements.

WHEREAS the Protected Property consists 103.0 acres of Supporting Landscape as identified by New Hampshire's 2015 Wildlife Action Plan;

WHEREAS the Protected Property is entirely located within the Chain-of-Ponds/ Whitton Pond Focus Area as identified by Upper Saco Valley Land Trust's 2011 Natural Resource Inventory, and further that the Protected Property contains XX.0 acres of Productive Forest Soils as identified in the Inventory;

WHEREAS a Forest Management Plan prepared by a professional resource manager as set forth in Section 4.D.1. below will guide all future commercial forestry activities;

WHEREAS, the Protected Property enhances the existing ecological, scenic, and recreational resources of other conserved lands, including the:

1. Abutting Protected Properties;
2. Adjacent or nearby 89-acre Whitton Pond Preserve, owned and forever protected by The Nature Conservancy;
3. Adjacent or nearby 315-acre Hartshorne Property, forever protected by a conservation easement held by The Nature Conservancy;
4. Adjacent or nearby 96-acre Lovejoy Preserve, owned and forever protected by New Hampshire Audubon;
5. 550-acre Mudd Property across Whitton Pond, forever protected by The Nature Conservancy;
6. Proximate White Mountain National Forest.

WHEREAS, the Grantor and the Grantee have the common purpose of conserving the above-described Conservation Values of the Protected Property in perpetuity.

NOW, THEREFORE, the Grantor and Grantee, recognizing the outstanding and unique conservation importance of the Protected Property, have the common purpose of preserving its ecological, forest resource, and scenic value by the conveyance of this Conservation Easement, consisting of the foregoing recitals and the following terms,



covenants, restrictions and affirmative rights granted to Grantee, which shall run with and bind the Protected Property in perpetuity.

### **➤ SECTION 3 – STEWARDSHIP GOALS ◀**

The **Stewardship Goals** to which Grantor and Grantee shall aspire are as follows:

- A. Protection, maintenance, or restoration of Rare and/or Exemplary Natural Communities, if any;
- B. Identification, protection, and conservation of natural communities, plant and wildlife species and their habitats, and unique or natural areas;
- C. Protection of the quality of surface and ground water resources including avoidance of filling, dredging, draining, and degradation;
- D. Maintenance or enhancement of native biological diversity including, but not limited to, protection of wetlands and riparian zones;
- E. Maintenance of soil stability and health including, but not limited to, the prevention of erosion, sedimentation, compaction, excessive nutrient depletion, and excessive loss of vegetative cover;
- F. Prevention of the establishment and spread of invasive exotic plant and wildlife species;
- G. Protection of the scenic quality of the natural, undeveloped rural landscape as viewed from Old Colony Road and Drake Hill Road; and
- H. Maintenance or improvement of the overall quality of forest and/or agricultural products.

### **➤ SECTION 4 – LAND USE LIMITATIONS ◀**

Subject to the rights reserved to the Grantor in Section 5:

A. Consistency with Conservation Purposes & Definitions of Ecological Terminology. No use shall be made of the Protected Property that is inconsistent with the Conservation Purposes of this Conservation Easement. All uses of the Protected Property not expressly prohibited herein and not detrimental to the Conservation Purposes of this Conservation Easement shall be permitted.

#### **1. Definitions of Ecological Terminology.**

- a. Ecological Integrity. For the purposes of this Easement, "Ecological Integrity" describes a condition in which natural processes (e.g., floods, fire, drought, seed dispersal, nutrient cycling, and maintenance of microclimates) are allowed to occur within their natural variation over time without human manipulation or suppression (i.e., the timing, duration and extent of a flood is allowed to run its course). These natural processes influence the structure and composition of habitats

that support native plants, animals and other organisms in groupings appropriate to the natural landscape. This dynamic and changing environment provides opportunities for biological evolution.

- b. **Riparian / Wetland Buffer.** For the purposes of this easement, “Riparian/Wetland Buffer” shall be the areas within 100 feet of intermittent streams and wetland areas, 200 feet of perennial streams, and 200 feet of Significant Wetland Areas as defined below. The Riparian/Wetland Buffer edge shall be measured from the edge of the normal high water mark of the stream or wetland edge, the riparian or wetland edge shall be measured from the top of embankment which shall be defined as a break in slope. In cases where wetlands surround a stream beyond 50 feet from the stream edge, the Riparian/Wetland Buffer shall be measured from the boundary of the upland edge of the wetland area.
- c. **Significant Wetland Areas.** For the purposes of this Easement, “Significant Wetland Areas” are those areas that, by virtue of their unspoiled condition, unique physical or biological features, rarity, and/or exemplary nature, have special value in a particular locale. This value is reflected in a high degree of functioning relative to its ecological integrity, wildlife and aquatic life habitat, flood storage, groundwater interactions, and/or sediment and toxicant attenuation, and special social values such as education, scenic quality, and recreation. Significant wetlands are typically identified and evaluated by wetland scientists, wildlife biologists, or Natural Heritage Bureau ecologists through fieldwork and/or high resolution aerial photograph interpretation. Significant wetlands include, but are not necessarily limited to:
  - i. Wetland communities or systems that are classified as exemplary due to their high quality as determined by their size, condition, and the condition of the surrounding landscape. See Sperduto, D.D. and William F. Nichols. 2011. *Natural Communities of New Hampshire*. 2nd Ed. NH Natural Heritage Bureau, Concord, NH. Pub. UNH Cooperative Extension, Durham, N.H. for further explanation of the characteristics of an exemplary wetland.
  - ii. Wetland communities or systems that are classified as exemplary (S1 and S2) due to their rarity in the State of New Hampshire by the NH Natural Heritage Bureau. Rare wetland types need not be of high quality to qualify as exemplary, but they must be considered viable in light of their size, condition, and landscape context. See Sperduto, D.D. and William F. Nichols. 2011. *Natural Communities of New Hampshire*. 2nd Ed. NH Natural Heritage Bureau, Concord, NH. Pub. UNH Cooperative Extension, Durham, NH. for further explanation of S rankings.

- iii. Wetlands that occur within identified Tier 1 and Tier 2 habitat areas identified in the New Hampshire Wildlife Action Plan, as published by NH Fish and Game Department, Concord, NH.
- iv. Wetlands providing habitat for endangered, threatened and special concern plants and wildlife as identified by the State and US Fish and Wildlife Service.

Examples of significant wetland types in New Hampshire include, but are not limited to cedar swamps, black gum swamps, vernal pools, exemplary natural communities tracked in the Natural Heritage Bureau ("NHB") database, any wetland community type ranked by the NHB as critically imperiled/or imperiled, bogs, fens (peat lands), and floodplain forests.

- d. Wildlife Habitat Management: For the purposes of this Easement, "Wildlife Habitat Management" shall include, but not be limited to, alteration of vegetation and soil and the placement of structures to provide habitat for a wide range of wildlife species; the construction or modification of roads or other access ways for the purpose of performing such activities; the use of farm or forest equipment; the sale of agricultural or forest products produced in association with such management; all as not to be detrimental to the Conservation Purposes of this Easement and guided by a stewardship plan.

B. No Activities May Impair Conservation Values. Any acts, uses or management activities undertaken on the Protected Property shall not materially impair the Conservation Values of the Protected Property as described in the Baseline Documentation Report described herein, nor harm state or federally recognized rare, threatened, endangered species or other species of concern, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Inventory or agency then recognized by the State as having responsibility for identification and/or conservation of such species, nor harm state or federally recognized historical or archeological resources, such determination of harm to be made based on information from the New Hampshire Division of Historic Resources or the agency then recognized by the State as having responsibility for identification and/or conservation of such resources.

C. No Industrial or Commercial Activity. The Protected Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial activities, or any commercial activities except forestry, agriculture, or activities undertaken in conjunction with permitted outdoor recreational uses, public water supply uses, educational uses, and/or renewable energy production, all as further limited and described below, provided that the productive capacity of the Protected Property to produce forest and/or agricultural crops shall not be degraded by the on-site activities of said forestry, agriculture, outdoor recreation, education, water-supply and/or renewable energy production and that such activities will not cause significant pollution of surface or subsurface water or soil erosion. Recreational uses of and activities on the Protected Property that are in conjunction with the non-profit activities of the Grantor World

Fellowship Center, Inc. shall not be considered to be commercial or to violate this provision of the Easement Deed.

D. Vegetation Management.

1. Forest Management.

a. All Forest Management activities permitted on the Protected Property, commercial and non-commercial, shall be consistent with the Conservation Purposes and Stewardship Goals of this Conservation Easement.

b. For the purposes hereof, "**Commercial Forest Management**" shall include all Forest Management activities performed for commercial purposes, including barter transactions, such as, but not limited to, the management, growing, stocking, harvesting, cutting, and sale of forest trees of any size capable of producing timber or other forest products, inclusive of the production of maple syrup, and also the construction of roads or other access ways for the purpose of removing forest products from the Protected Property.

c. For the purposes hereof, "**Non-Commercial Forest Management**" shall include the small-scale cutting or harvesting of wood products for the personal use of the Grantor, such as clearing trees to maintain the edge of a field, cutting firewood for use by Grantor, cutting and milling lumber for use in Grantor's own building projects, small-scale non-commercial maple sugaring operations, or removing trees or limbs to ensure public safety. Non-Commercial Forest Management shall not include activities conducted for the contemporaneous production of sale proceeds or other consideration.

d. Any and all Commercial Forest Management, as well as any Non-Commercial Forest Management that entails the harvesting of more than ten (10) cords of wood in any calendar year, shall be performed in accordance with a written Forest Management Plan (hereinafter, "**Forest Management Plan**" or "**the Plan**") prepared by a professional New Hampshire Licensed Forester, or by other qualified person approved in advance and in writing by the Grantee, with the following provisions:

i. The Plan shall have been prepared not more than ten (10) years prior to the date any Commercial Forest Management or related activity, such as forest road construction, is expected to commence.

ii. The Plan shall be subject to advance review and approval by the Grantee, in order for the Grantee to determine that the Plan and amendments are consistent with the Conservation Purposes, Stewardship Goals, and Section 4. C. provisions of this Conservation Easement.

iii. Grantor is required to submit written notification to the Grantee of intent to perform any Commercial Forest Management activity at least forty-five (45) days prior to desired initiation, along with a copy of the Plan.

iv. Amendments to the Plan shall be required if the Grantor proposes a forest management activity or treatment not included in a previously submitted plan; however, no such amendment shall be required for any change in timing or sequence of activities within a ten-year cycle described in the Plan. Amendments to the plan shall be submitted to Grantee for review and approval not less than forty-five (45) days prior to the desired initiation of any Commercial Forest Management activities;

v. The Forest Management Plan and amendments thereto shall include a statement of landowner objectives, and shall specifically address:

- the long-term protection of those Conservation Purposes for which this Conservation Easement is granted;
- the Stewardship Goals in Section 3 above;
- any proposed application of pesticides or fertilizers for forest management purposes, in accordance with Section 4.N;
- the location and description of any proposed Minor Forest Management Structures, in accordance with Section 5.C.1, including plans and timing for their removal; and
- a detailed description of any proposed new roads, or improvements to existing roads, in accordance with Section 5.D.1 and 5.D.2.

e. Commercial Forest Management and related activities such as road installation or expansion shall be conducted in accordance with the Plan and shall be supervised by a New Hampshire licensed forester or by other qualified person approved in advance and in writing by the Grantee. In addition, all trees to be harvested must be marked by or otherwise designated and prescribed by, and the forestry operation must be laid out by, the licensed forester or other qualified person approved in advance by the Grantee.

f. Grantor and Grantee acknowledge that the Plan's purpose is to guide Commercial Forest Management activities in compliance with this Conservation Easement, and that the actual activities on the ground will determine compliance therewith.

g. Clearcutting and even-aged management shall be prohibited, except that individual patch clearcuts that (i) are no larger than five (5) acres that are well dispersed in time and location such that no more than 10 acres in combined total of the Protected Property shall be clearcut in any consecutive 20-year period and (ii) are integral to silvicultural practices that help foster uneven-

aged forest stand structure, shall be permitted. Clearcutting should be used only where other silvicultural methods cannot be used to meet landowner objectives, and is not detrimental to the Conservation Purposes, and is consistent with the Management Plan.

h. There shall be no high-grading harvest practices. The term "high-grading" means the removal of the most commercially valuable trees, leaving residual stands composed of trees of poor condition or species composition, through which the forest may become depleted over time of the best growing stock.

i. Any and all Commercial Forest Management and Non-Commercial Forest Management activities on the Protected Property shall be carried out in a manner consistent with the then current scientifically-based practices recommended by the University of New Hampshire Cooperative Extension Service, U.S. Natural Resources Conservation Service, or other similar government natural resource conservation and management service and in accordance with:

- All applicable local, state and federal laws and regulations; and
- Good Forestry in the Granite State; Recommended Voluntary Forest Management Practices for New Hampshire, New Hampshire Sustainability Standards Work Team, 2010, or similar successor publications as mutually agreed upon by Grantor and Grantee; and
- Best Management Practices for Erosion Control on Timber Harvesting in New Hampshire, N.H. Division of Forests and Lands, J.B. Cullen, January 2001, or similar successor publications as mutually agreed upon by Grantor and Grantee.

Where said Best Management Practices and/or Land Management Guidelines, as cited above, conflict with provisions of this Conservation Easement, those that are determined by the Grantee to best reflect the Conservation Purposes and Stewardship Goals of this Conservation Easement shall take precedence in the regulation and/or guidance of these activities.

## 2. Emergency Response to Forest Disturbance

a. In the event or where there is significant threat of any broad-scale, high-impact disturbance to forested areas of the Protected Property, such as fire, flood, wind, ice damage of an extreme nature, catastrophic disease and/or insect infestation, and the like, consultation among the Grantor, the Grantee, and a New Hampshire licensed forester or by other qualified person approved in advance and in writing by the Grantee shall seek consensus regarding appropriate action or actions to be taken, if any, in response to

said high-impact disturbance so as to best uphold the Conservation Purposes and Stewardship Goals of this Conservation Easement as well as to protect the health of local and regional forests.

b. In seeking such consensus all parties shall be guided by consultation with then-current scientific resources including, but not limited to, the University of New Hampshire Cooperative Extension Service, the New Hampshire Department of Resources and Economic Development's Division of Forests and Lands, the U.S. Natural Resource Conservation Service, the Carroll County Conservation District, or other similar government natural resource conservation and management service.

c. Any harvesting activities resulting from emergency response to forest disturbance will not add to the acreage thresholds enumerated above in Section 4.D.1.g. unless otherwise agreed to by those consulting under subparagraph Section 4.D.2.a. above.

d. Nothing herein shall prohibit the Grantor from taking emergency responsive action in the interest of public safety.

### 3. Land Conversion.

a. Where land conversion in excess of one (1) acre in aggregate over any given consecutive five (5) year period is planned to occur, the Grantor shall submit for Grantee's review and approval a Land Conversion Plan (hereinafter "Conversion Plan") demonstrating that such land conversion is consistent with the Conservation Purposes and Stewardship Goals of this Conservation Easement and will continue to be managed accordingly. The Conversion Plan may be made part of an adopted Forest Management Plan, described and characterized above in Section 4.D.1.d.

b. For the purposes hereof, "land conversion" shall mean, for any given area of the Protected Property, the removal of trees, saplings, shrubs, and groundcovers including stumps and roots preliminary to and including the preparation of surface topography and soils for the purposes of accommodating and instituting plantation forestry or for the support of row crop areas or gardens, orchards, field, meadow, or like non-forested acreage or habitat. Patch clearcuts as described in Section 4.D.1.g, or other silvicultural techniques that favor early successional habitat, shall not be considered land conversion.

c. Fields and meadows may be used for habitat purposes (e.g., for grassland bird species), agriculture (e.g., pasturing of animals), or occasionally mown for recreational activities, provided that any such maintenance for recreational purposes minimizes soil disturbance and does not include any fixed equipment or the installation of any potentially associated structures otherwise prohibited by this Conservation Easement (e.g., bleacher stands,

lighting, etc.). Fields maintained for recreational purposes shall not exceed two acres in size.

d. For the purposes hereof, "plantation" or "plantation forestry" shall mean a forest stand comprised primarily of trees established by planting or artificial seeding.

e. The Conversion Plan shall be prepared by a natural resource professional and submitted for Grantee's approval at least sixty (60) days prior to the initiation of any such activity. The Grantee must, within sixty (60) days of receipt of the Conversion Plan, notify the Grantor in writing of its approval or denial together with an explanation of the justification for such. For the purposes hereof, "natural resource professional" shall mean a USDA Natural Resource Conservation Service soil conservationist, a licensed forester, or other qualified person who has been approved in advance and in writing by the Grantee.

f. Notwithstanding the foregoing, any open, non-forested areas at the time of this Conservation Easement as depicted in the Baseline Documentation may be maintained as open or allowed to grow into forest.

#### E. Agricultural Management.

1. Agriculture may be conducted on any portion of the Protected Property that is converted from forest in accordance with a Land Conversion Plan in Section 4.D.3. For the purposes hereof, "agriculture" shall include animal husbandry, floriculture, and horticulture activities; the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting, and sale of Christmas trees; the growing of plants or trees to mitigate the effects of climate change; the construction of minimum access roads for the purpose of removing agricultural products from the Protected Property or supporting agricultural activities; and the processing and sale of products produced on the Protected Property (such as pick-your-own fruits and vegetables and maple syrup) all as not detrimental to the Conservation Purposes of this Conservation Easement. Equestrian activities not related to agricultural or forestry operations (such non-agricultural or non-forestry equestrian activities may include horse training, showing, racing or breeding) shall not be considered "agriculture."

2. Agriculture for commercial purposes shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Protected Property. All permitted agricultural management activities conducted on the Protected Property shall be carried out in a manner consistent with the then current scientifically based practices recommended by the University of New Hampshire Cooperative Extension Service, U.S. Natural Resources Conservation Service, or other similar government natural resource conservation and management service. Said agricultural management activities shall not be



detrimental to the Conservation Purposes of this Conservation Easement, as described in Section 1 above.

F. No Structures or Improvements. As of the date of this Conservation Easement, existing structures on the Protected Property consist of trail signs, stone walls, benches, culverts, trail bridges, trail signs, interpretive trail markers, and the Drown Shelter (see the Baseline Documentation Report). Existing structures may be maintained, repaired, or replaced in substantially similar size and in a substantially similar location or in an alternative location approved by Grantee based on a determination that such alternative location is least detrimental and/or not materially harmful to the Conservation Purposes. Existing structures located on the Abutting Protected Properties may be relocated to the Protected Property if approved by Grantee under the same standard. No additional structure or improvement shall be constructed, placed, or introduced on, under, or above the Protected Property except for structures and improvements as specified in Section 5.

For the purposes of this Conservation Easement, a "structure" shall be defined broadly as any combination of materials on, over, in and/or under the ground and having a temporary or permanent fixed location. A structure may be primarily two dimensional, such as a paved road or parking lot, fence or a sign, or three dimensional, such as a building, wall or piping. An unpaved road or trail shall not be considered a structure but shall instead be considered a surface alteration.

G. No Disturbance or Surface Alteration. As of the date of this Conservation Easement, the Protected Property contains no surface alterations except, logging roads, skid trails, a log landing area, unpaved trails and other natural features on the Protected Property. There shall be no disturbance of the surface, or alteration of the topography, of any portion of the Protected Property, except as provided in Section 5.D. as may be necessary to further permitted uses as defined herein.

H. No Dumping or Hazardous Waste Storage. No dumping, storage, injection, burning or burial of man-made materials, building demolition or construction debris, trash, tires, municipal plowed snow, vehicle bodies or parts or similar materials, or materials known to be environmentally toxic or hazardous shall be permitted on the Protected Property. No wastes generated off the Protected Property shall be disposed of or discharged on the Protected Property. No hazardous substances shall be stored, applied, or disposed of on the Protected Property, except in conjunction with any water supply, agricultural, forestry, renewable energy generation, or outdoor recreational activities that do not threaten water supply protection or other Conservation Purposes. For the purpose hereof, "environmentally toxic or hazardous" materials are those determined by local, state, or federal governments to pose risks to the health of persons, wildlife, and plants and the quality of their environments.

I. No Mining. There shall be no mining, quarrying, excavation, or removal of rocks from the Protected Property, except as necessary to carry out permitted uses herein. No such

rocks, minerals, gravel, topsoil, or other similar materials shall be removed from the Protected Property.

J. No Rights-of-Way, or Easements of Ingress or Egress. No rights-of-way or easements of ingress or egress in favor of a third party shall be created or developed into, under, over, or across the Protected Property without prior written approval of the Grantee and the LCHIP, except those of record as of the date of the execution of this Conservation Easement and those specifically permitted in the provisions of this Conservation Easement. Grantor shall not sell, lease, or grant an easement covering any portion of the Protected Property where such sale, lease, or easement will adversely impact the Conservation Values of the Protected Property as determined by the Grantee.

K. No Division. The Protected Property may be conveyed only in its entirety, and Grantor shall not undertake any action that would have the effect of dividing the Protected Property, including a partition action.

L. No Use of Protected Property to Meet Land Use Regulations. The Protected Property shall in no way be used to satisfy the requirements of any applicable zoning ordinance or subdivision regulation, including but not limited to density, frontage or open space requirements, with respect to the development of any other property.

M. Invasive Species. The intentional introduction and/or cultivation of invasive plant or animal species (hereinafter, "invasive species") is prohibited on the Protected Property; said species to be those designated as on Fact Sheet: Prohibited Invasive Plant Species Rules, Agr 3800 issued by the New Hampshire Department of Agriculture, Markets and Food, or a substitute list approved in advance by Grantee.

N. Pesticide and Chemical Use. The application of any pesticides (herbicide, insecticide, fungicide, rodenticide, etc.) or fertilizers used in, but not limited to, forest management or for the purpose of controlling or eradicating invasive species, shall be consistent with all applicable local, state, and federal laws and regulations governing the use of such; utilize the narrowest spectrum, least persistent chemicals available; and be consistent with the Conservation Purposes and Stewardship Goals of this Conservation Easement.

O. Water Systems & Groundwater Extraction. There shall be no pollution, alteration, removal, depletion or extraction of surface water or subsurface water, except the alteration, removal, depletion or extraction of water as needed to support the use of the Grantor, and any alteration, removal depletion or extraction required because of the installation of a future public water supply source, or the expansion of an existing water supply source, all as consistent with and pursuant to RSA ch. 485-F and further detailed below in Section 5(H). There shall be no removal of surface or subsurface water from the Protected Property for purposes of its commercial sale or barter transaction. No acts or uses shall occur on the Protected Property that would (a) degrade the water quality such that the standards set for public drinking water by the N.H. Department of Environmental Services would be threatened; (b) cause an unsustainable quantity of water to be withdrawn; or (c) harm state or federally recognized rare, threatened, or endangered species.

P. No motorized vehicles shall be allowed on the Protected Property except as allowed for in Section 5(F) below. No motorized vehicles shall be allowed for recreational purposes, except that snowmobiles, as defined in NH RSA 215-A:1, XIII, may be allowed at the Grantor's discretion if they are operated only on snow and ice outside of the sanitary protective area of public water supply well(s), more than 250 feet from a surface water body being used as a public water supply; more than 100 feet from tributaries contributing to such water bodies, except when crossing such tributaries, and only on designated trails depicted in a plan approved by the N.H. Department of Environmental Services.

Q. No Defacement of Legal Boundaries. There shall be no defacement, movement, removal, or alteration of any stone walls or other monuments, markers, or blazes that serve as legal boundaries, as per New Hampshire RSA 472:6, or as the legal boundary of this Conservation Easement as described in Appendix A.

#### **> SECTION 5 – RESERVED RIGHTS <**

All uses of the Protected Property not expressly prohibited herein and not detrimental to the Conservation Purposes, Conservation Values, and Stewardship Goals of this Conservation Easement are expressly reserved to the Grantor, including but not limited to the following:

A. Rules Regulating Public Use. The Grantor reserves the right, jointly with the Grantee, to establish rules, including the posting of such, for the purpose of regulating public access to and use of the Protected Property in order to protect the Conservation Values and Conservation Purposes of this Conservation Easement, subject however to the provisions of New Hampshire 227-M as described in Section 6 regarding public access.

B. Non-profit Activities. The Grantor reserves the right to conduct non-profit activities, events and programs on the Protected Property that promote the mission of the Grantor and that are limited in frequency, size, and scope so as to not demonstrably harm the Conservation Purposes.

C. Permitted Structures. Nothing within this Conservation Easement prevents Grantor from taking necessary steps in an emergency situation to protect existing or future allowed structures and improvements located on the Protected Property, Abutting Protected Properties, or Exclusion Areas as shown on the Survey Plan, and further Grantor reserves the right to construct, repair and maintain the following structures on the Protected Property, as long as wetland soils, intermittent or perennial streams, vernal pools, or other hydrology are not materially harmed:

1. Minor forest management structures. Grantor reserves the right to establish and maintain minor, temporary, or portable structures commonly necessary for, or appropriate to support, Non-Commercial Forest Management activities or Commercial Forest Management activities on the Protected Property, such as temporary equipment sheds, machinery or trailers, portable privies, gates, barriers, fences, culverts, bridges and other stream crossings, and boundary

markers. Where the installation of Minor Forest Management Structures may pose a potential risk to water quality, said structures shall be set back at least two hundred (200) feet, measured horizontally, from the edges of any water bodies and wetlands.

2. Minor agricultural structures. In the event that land conversion takes place in accordance with Section 4.D.3. and small-scale agricultural activities are conducted on the Protected Property, Grantor reserves the right to establish and maintain minor structures conducive to small-scale agriculture such as but not limited to poultry-grazing units, hutches and portable structures for animal husbandry, and animal watering and irrigation systems. Notwithstanding the foregoing, major permanent agricultural structures shall be prohibited anywhere on the Protected Property, including, without limitation, greenhouses, barns, hoop houses, and any structure containing four walls and a roof larger than 100 square feet.
3. Minor recreational and educational structures. Grantor reserves the right to establish and maintain minor structures to enhance the opportunity for low-impact outdoor recreation and education, including but not limited to such structures as trail markers, steps, bog bridges, water bars, railings, benches and seating, wildlife observation blinds, observation and hunting stands, gates, and barriers or low fences to prevent unauthorized access by motor vehicles; provided that they shall be constructed and located to complement the natural and scenic features of the Protected Property.
4. Major Recreational Structures. Grantor reserves the right to construct, maintain, restore, and replace no more than two (2) non-residential rustic structures such as a lean-to, gazebo, or screenhouse on the Protected Property. In addition to the two rustic structures contemplated herein, Grantor also reserves the right to construct up to three tent platforms or yurt structures on the Protected Property, along with a two outhouses or composting toilets. The location of all such structures shall be agreed upon in consultation with the Grantee in order to minimize disturbance to Conservation Values. For the larger rustic structures, the structures shall be limited in size to a maximum footprint of five hundred (500) square feet and limited in height to 20 feet, which distance shall be measured from the average pre-construction grade to the highest point of the structure. For the purposes of this Conservation Easement, "footprint" shall mean the portion of the Protected Property covered by all portions of a structure, including decks, stairs, porches, and roof overhangs. The structure shall not be served by utilities such as running water or electricity and shall not be outfitted with cooking accommodations. For other structures mentioned herein (tent platforms or yurts), each structure shall not individually exceed 300 square feet. The construction of any structure, or any subsequent expansion to a structure, shall require notice to the Grantee pursuant to Section 11, and Grantor must provide sufficient plans and supporting information enabling Grantee to adequately determine whether

proposed plans are consistent with the terms of this Easement and the Conservation Purposes hereof. The undertaking of any activities as herein described shall seek to adequately limit and confine negative impact to the surrounding vegetation and landscape. Notwithstanding the foregoing, any other substantial or high-impact outdoor recreational structures are prohibited, including but not limited to paved trails, boardwalks other than bog bridging, docks, piers, golf courses, golf ranges, swimming pools, mud runs, tennis and other athletic courts, paintball and other adventure courses, stadiums, performance stages, dressage fields, equestrian rings, polo fields, ATV or race tracks or courses, towers, playgrounds, airstrips, and permanent aircraft pads.

5. Renewable Energy Generation Area & Associated Structures.
  - a. Grantor reserves the right, within two (2) separate two-acre areas known as "Renewable Energy Areas" (cumulatively no more than four acres), to be designated jointly with the Grantee in order to minimize impacts to the Conservation Values, to install renewable energy generation systems, such as, but not limited to solar panels, small wind power generators, geothermal heating, and other systems, for on-site (including on the Abutting Protected Properties or the abutting or proximate Exclusion Areas) residential use, agricultural use, forestry use and/or to support other permitted uses of the Protected Property, Abutting Protected Properties, or Exclusion Areas, provided that such improvements shall be sited to minimize impacts to scenic values of the Protected Property from Drake Hill Road, Old Colony Road, Route 16 and other public viewpoints, as determined in consultation with Grantee and with prior written approval by Grantee;
  - b. Renewable energy systems shall be sized to support only (i) the residential use, agricultural use, forestry use and/or other permitted uses of the Protected Property and/or the Abutting Protected Properties, and/or (ii) the bona-fide non-profit activities of the Grantor occurring on the named Exclusion Areas shown on the Survey Plan;
  - c. Notwithstanding the foregoing, Grantor is under no obligation to provide to power to Exclusion Areas or Abutting Protected Properties;
  - d. Grantor reserves the right to sell any incidental excess power generated by any of the above-mentioned renewable energy systems to the servicing utility company or other entity; and
  - e. Wiring to or from a renewable energy system shall be allowed to cross other areas of the Protected Property or Abutting Protected Properties in order to power existing structures, future structures allowed herein, both on the collective Protected Properties and the Exclusion Areas, or to access the electric grid, so long as such wiring is sited to minimize impacts to Conservation Values.
6. Signs. Grantor shall not install signs for commercial advertising purposes except as allowed for in Section 5.C.6.a. below, but Grantor reserves the right to install unlit signs commonly necessary in the accomplishment of forest

management, agriculture, conservation, renewable energy, educational, or noncommercial, non-motorized outdoor-recreational uses of the Protected Property, or signs necessary for the bona-fide non-profit activities of the Grantor, or signs that are deemed essential to preserving the health and safety of individuals. No sign shall exceed six (6) square feet in area unless mutually agreed upon by Grantor and Grantee for a demonstrated need, and no sign shall be illuminated. Any signs must be dispersed in a manner and be of a material, color, and design commonly regarded as compatible with and not detracting from the scenic values of the Protected Property nor competing unnecessarily with the natural environment as viewed from Route 16 and the Drake Hill Road, or other public vantage points. Signs may not be installed in water, wetland, or a Riparian/ Wetland Buffer unless they are to identify plants or provide other information related to the ecosystem, if desirable or necessary in the accomplishment of conservation or noncommercial pedestrian outdoor recreational uses of the Protected Property, and provided such signs are not detrimental to the Conservation Purposes of this Easement.

- a. Grantor reserves the right to maintain, improve, or replace one (1) existing sign within a Wetland Buffer area just north of the intersection of Route 16 and Drake Hill Road, as documented in the Baseline Documentation Report. The existing sign is hung from a metal frame structure, which measures approximately 138" by 138". Any future sign or expansion of the current sign shall not exceed the dimensions of the metal frame structure; allowed maintenance and improvements to the structure and sign could include lighting (but not interior illumination).

D. Surface Alterations. The following surface alterations are allowed only if (a) they do not harm state or federally recognized threatened or endangered species, or species of conservation concern, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau and the New Hampshire Fish & Game Department, Non game and Endangered Species Program or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and (b) the activity only temporarily impacts wetland soils, intermittent or perennial streams, vernal pools, or other hydrology unless allowed under this section of this Easement.

1. Existing Roads. Grantor reserves the right to maintain, repair, and replace existing unpaved roads and associated bridges and culverts solely for purposes of forest management, conservation, renewable energy, and agriculture throughout the Protected Property, and for the purpose of access to allowed structures and facilities within the Protected Property and Exclusion Areas, provided that such is consistent with the Conservation Purposes, Stewardship Goals, and Section 4.D. provisions of this Conservation Easement. Said existing roads may not be paved.

2. New Roads. At the prior written approval of the Grantee, Grantor reserves the right to construct new unpaved roads or expand, relocate or improve (but not pave)

existing roads solely for purposes of forest management, agriculture, or renewable energy, and for the purpose of access to allowed structures and facilities within the Protected Property and Exclusion Areas, provided that the following requirements are met: (a) Such construction is consistent with the Conservation Purposes and Stewardship Goals; and (b) Additional road improvements are shown to be necessary because the system of existing roads is inadequate for such purposes, or does not exist. The location, design, and installation of new roads or the expansion, relocation or improvement of existing roads to support allowed forestry uses shall be described within the Forest Management Plan or amendment thereto subject to review by the Grantee as described in Section 4.D.1.d. of this Conservation Easement. Grantor shall provide Grantee with sufficient information to enable Grantee to determine whether plans are consistent with the Conservation Purposes, Stewardship Goals, and Section 4.D. provisions of this Conservation Easement.

3. Trails. Grantor reserves the right to establish and maintain unpaved trails for non-commercial, non-motorized, low-impact recreational use including but not limited to walking, cross-country skiing, snowshoeing, nature study and observation, photography, and similar recreational activities. Trails may include ancillary structures (e.g., culverts, fencing and board walks) as allowed in Section 5.C. Trails shall not exceed six (6) feet in width, except when necessary to comply with the Americans with Disabilities Act (ADA) requirements. For example, trails designated as ADA-compliant may need to be wider to allow access for wheelchairs or Other Power-Driven Mobility Devices as defined under that law.

4. Underground utilities. Upon prior notice to and approval by the Grantee, the Grantor reserves the right to place, install, maintain, repair and relocate underground utilities on or under the Protected Property, including but not limited to extending electrical service to the Waterfront Exclusion Area. The Grantor shall restore the Protected Property following any such activity.

E. Archeological Activities. The Grantor reserves the right to conduct archaeological activities, including without limitation, survey, excavation and artifact removal, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the New Hampshire Division of Historic Resources (or appropriate successor official) and written notice to the LCHIP.

F. Vehicular Access for Maintenance. The Grantor reserves the right to allow onsite motorized vehicles, including snowmobiles or off-highway recreational vehicles, as necessary for oversight and maintenance of the Protected Property or to access Abutting Protected Properties or Exclusion Areas, and specifically in furtherance of the agricultural, forestry, and renewal energy production uses permitted herein, and/or in furtherance of the bona-fide non-profit activities of the Grantor. This paragraph shall not be construed to allow vehicular access to third parties for recreational purposes, or for the Grantor to allow such recreational use by paying third parties, even if such payment helps to support the Grantor's non-profit activities.

G. Posting Against Use. The Grantor reserves the right to post against public access in certain circumstances, which right is further defined and conditioned in Section 6 below.

H. Public Water Supply. The Grantor reserves the right to have the Protected Property be used to site a public water supply source in the future and no other restriction, easement, agreement, or encumbrance may preclude the Protected Property's use as a public water supply source. More specifically, withdrawal of surface water and/or groundwater on a sustainable yield basis and removal of said water from the Protected Property is permitted for the purpose of supplying a public water system, as defined by NH RSA 485:1-a, XV, as it may be amended from time to time, and such withdrawal shall not harm other Conservation Values enumerated herein.

I. Invasive Species Control. The Grantor reserves the right to control or remove non-native or invasive species with 30-day notice to Grantee on the Protected Property.

J. Wetland Restoration. Subject to 30-day written notice to Grantee and written approval from the Grantee and in accordance with a written plan approved by DES, the Grantor reserves the right to construct, re-construct, and maintain structures or make other improvements intended to restore wetland functions and values and/or to make wildlife habitat improvements so as to provide enhancement of functions within degraded wetland or riparian systems on the Protected Property, provided that such construction and required maintenance are not detrimental to the Conservation Purposes of this Easement. Prior to commencement of any such activities, all necessary federal, state, local, and other governmental permits and approvals shall be secured and such notices as may be required under Section 11 of this Easement shall be delivered to the Grantee and DES.

## **➤SECTION 6 - AFFIRMATIVE RIGHT OF PUBLIC ACCESS ◀**

Pursuant to NH RSA 227-M, there is hereby conveyed the right of pedestrian access to, on, and across the Protected Property for lawful hunting, fishing, and transitory passive recreational purposes, but not camping, by members of the public. Grantor may post against or limit such access with prior written approval of the Grantee and LCHIP if such activities become inconsistent with the Conservation Purposes for protecting the Protected Property, when public safety would be at risk. Notwithstanding the above, Grantor may post against vehicles, motorized or otherwise, against access to active livestock fields, against access to agricultural cropland during the planting and growing season, against access to developed portions of the Renewable Energy Area, and against access to forest land during harvesting, establishment of plantations, or other active forest management activity. Further, Grantor or Grantee may temporarily restrict public access during an emergency situation where public safety could be at risk, so long as LCHIP receives notification and request for approval of such posting no more than ten (10) calendar days after such posting has occurred; such posting shall be subject to retroactive review and approval by LCHIP, provided, however, that any posting not subsequently approved by LCHIP shall not be considered a violation of this Conservation Easement.



## **➤ SECTION 7 - AFFIRMATIVE RIGHTS OF THE GRANTEE ◀**

A. The Grantee shall have the right to access the Protected Property and all of its parts for such inspection as the Grantee finds necessary to determine compliance with and enforce the terms of this Conservation Easement, to exercise the rights conveyed hereby, to carry out the duties assumed by the Grantee, and, to maintain boundaries if the Grantee so desires.

B. In the event of an emergency, the Grantee may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantor at the earliest practicable time.

C. The Grantee shall have the right, but not the obligation, in consultation with the Grantor, to install and maintain signs that identify and further the Conservation Purposes of the Protected Property, or for identification of conservation partners, provided that said installation and maintenance are not detrimental to the Conservation Purposes of this Conservation Easement.

D. Upon written approval of LCHIP, the Grantee shall have the right to post against or otherwise limit public access if the public safety is threatened or if such access is otherwise inconsistent with the Conservation Purposes of this Conservation Easement.

## **➤ SECTION 8 - ADDITIONAL EASEMENT ◀**

Should Grantor determine that the expressed Conservation Purposes of this Conservation Easement would better be effectuated by the conveyance of an additional easement, Grantor may, with prior approval of the Grantee and LCHIP, execute an additional instrument to that effect, provided the additional provisions do not conflict with this Conservation Easement's provisions, that the Conservation Purposes of this Conservation Easement are not diminished thereby, and that any future conservation easement shall be conveyed to and accepted and recorded by either the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas, and agrees to and is capable of enforcing the Conservation Purposes of the Conservation Easement. Any such assignee or transferee shall have like power of assignment or transfer. Any easement arising after the date of execution of this Conservation Easement deed will be subordinated, by operation of law or otherwise to this Conservation Easement.

## **➤ SECTION 9 - TAXES, MAINTENANCE ◀**

A. Grantor acknowledges that Grantee has no possessory rights in the Protected Property and shall be under no obligation to maintain the Protected Property or to pay any taxes, liens or assessments thereon. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any nature related to the ownership, operation, upkeep, improvement and maintenance of the Protected Property. Grantor is responsible to pay and discharge when due all property taxes and assessments lawfully imposed and to avoid the imposition of any

liens or encumbrances that may impact Grantee's rights hereunder, and Grantor shall promptly notify Grantee of the filing or recording of any such lien or encumbrance.

#### **➤ SECTION 10 - BENEFITS AND BURDENS ◀**

A. In accordance with RSA 227-M:14, notwithstanding any other provision of law relating to the disposal of publicly-owned real estate, no deviation in the uses of any resource asset acquired under the Land and Community Heritage Investment Program to uses or purposes not consistent with the purposes of RSA 227-M shall be permitted. The sale, transfer, conveyance, or release of any resource asset from public trust is prohibited, except as provided in NH RSA 227-M:13

B. The burden of the Conservation Easement conveyed hereby shall run with the Protected Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of said Conservation Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the United States of America, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code (1986), as amended, which government unit has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the Conservation Purposes of this Conservation Easement; or any

qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas, and agrees to and is capable of enforcing the Conservation Purposes of this Conservation Easement (together hereinafter referred to as "Qualified Successor Organizations"). Any such assignee or transferee shall have like power of assignment or transfer.

#### **➤ SECTION 11 – NOTICES AND APPROVALS ◀**

A. Grantor shall notify Grantee, and New Hampshire Department of Environmental Services no less than ten (10) days prior to any sale, conveyance, or transfer of the Protected Property, said notice to include the name and contact information of Successor Grantor:

B. Grantor hereby agrees to incorporate and/or refer to the terms of this Conservation Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest.

C. All notices, requests for approval and other communications, required to be given under this Conservation Easement shall be in writing and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to:

**Grantor:** Director  
New Hampshire World Fellowship Center, Inc.  
PO Box 2280  
Conway, NH 03818

**Grantee:** Executive Director  
Upper Saco Valley Land Trust  
PO Box 2233  
Conway, NH 03818

**Right of Enforcement:** Executive Director  
NH Land and Community Heritage Investment Program (LCHIP)  
3 North Spring Street, Suite 100  
Concord, NH, 03301

**Executory Interest Holder:** State of New Hampshire  
c/o Christopher G. Aslin, Senior Assistant Attorney General  
Department of Justice  
33 Capitol Street  
Concord, NH 03301

**Department of Environmental Services (DES):**  
CONTACT?  
29 Hazen Drive  
Concord, NH 03301

or at such other address as the Grantor, the Grantee, LCHIP, the Executory Interest Holder, or DES may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

D. Grantee agrees to provide the Grantor with written notification of receipt of all management plans or other notifications within fifteen (15) days of receipt.

E. Any notices to Grantee and/or LCHIP or requests for Grantee and/or LCHIP consent, required or contemplated hereunder, must include, at a minimum, sufficient information (including, but not limited to, documents, maps, plans, specifications, and designs where appropriate) to enable Grantee and/or LCHIP to determine whether proposed plans are consistent with the terms of this Conservation Easement and the Conservation Purposes hereof. Grantee and/or LCHIP approval or denials must be in writing and must be determined pursuant to the Conservation Purposes of this Conservation Easement.

## **➤ SECTION 12 – DISPUTE RESOLUTION ◀**

A. The Grantor and the Grantee desire that issues arising from time to time concerning prospective uses or activities in light of the Conservation Purposes of the Conservation Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and

the Grantee agree that if a party becomes concerned about the consistency of any proposed use or activity with the Conservation Purposes of this Conservation Easement, wherever reasonably possible, the concerned party shall notify the other party of the perceived or potential problem, and explore the possibility of reaching a mutually agreeable resolution.

B. If informal dialogue does not resolve the issue, and the Grantor agrees not to proceed with the proposed use or activity pending resolution of the on-going dispute, either party may refer the dispute to mediation by request made in writing to the other. Within twenty (20) days of the receipt of such a request, the parties shall agree on a single impartial mediator who shall preferably be an attorney licensed to practice law in New Hampshire or an experienced land use or land conservation professional. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

C. If the dispute has not been resolved by mediation within sixty (60) days after delivery of the mediation request, or the parties are unable to agree on a mediator within twenty (20) days after delivery of the mediation request, then, upon the Grantor's continued agreement not to proceed with the disputed use or activity pending resolution, the parties may refer the dispute to binding arbitration in accordance with New Hampshire RSA 542. If arbitration is mutually agreed to by both parties, within thirty (30) days of the receipt of such a request, the parties shall select a single impartial arbitrator to hear the matter. The arbitrator shall be an attorney licensed to practice law in New Hampshire, preferably with significant experience in conservation easements. Judgment upon the award rendered by the arbitrator may be enforced in any court of competent jurisdiction. The arbitrator shall be bound by and follow the substantive law of New Hampshire. The arbitrator shall have the authority to order injunctive relief as well as monetary damages. The arbitrator shall render a decision within thirty (30) days of the arbitration hearing. Arbitration shall be conducted in Concord, New Hampshire, or such other location as the parties may agree. Costs and attorney's fees connected with arbitration shall be determined in accordance with Section 13.F.

D. If the parties do not agree to resolve the dispute by arbitration, or if the parties are unable to agree on the selection of an arbitrator, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation by permanent injunction, and to require the restoration of the Protected Property to its condition prior to the breach and for such damages as appropriate.

E. Notwithstanding the availability of mediation and arbitration to address disputes concerning the consistency of any proposed use or activity with the Conservation Purposes of this Conservation Easement, if the Grantee believes, in its sole discretion, that some action or inaction of the Grantor or a third party is causing irreparable harm or damage to the Protected Property, the Grantee shall have a right to immediately proceed with an action in law or equity in any court of competent jurisdiction.

### **> SECTION 13 - BREACH OF EASEMENT – GRANTEE'S REMEDIES <**

A. If the Grantee determines that a breach of this Conservation Easement has occurred or is threatened, the Grantee shall notify the Grantor in writing of such breach and demand corrective action to cure the breach and, where the breach involves injury to the Protected Property resulting from any use or activity inconsistent with the Conservation Purposes of this Conservation Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by the Grantee. Such notice shall be delivered in hand or by certified mail, return receipt requested.

B. If the Grantor fails, within thirty (30) days after receipt of such notice or after otherwise learning of such conduct, to undertake those actions, including restoration, which are reasonably calculated to cure said breach and to repair any damage to the Protected Property caused thereby or fails to continue diligently to cure such breach until finally cured, the Grantee may undertake any actions that are reasonably necessary to repair any damage in the Grantor's name or to cure such breach, including an action at law or in equity in a court of competent jurisdiction, with notice if possible and *ex parte* as necessary (after a good faith effort to provide notice), to enforce the terms of this Conservation Easement, to enjoin the violation, by emergency order, by temporary or permanent injunction, and to require the restoration of the Protected Property to the condition that existed prior to any such injury.

C. The Grantee shall be entitled to recover damages from any party responsible for violation of the terms of this Easement or injury to any Conservation Values protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental values, if restoration damages are not available. Without limiting the Grantor's liability therefore, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property.

D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Property, the Grantee may pursue its remedies under this Section 13 without prior notice to the Grantor or without waiting for the period provided for cure to expire.

E. The Grantee's rights under this Section 13 apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. The Grantor agrees that the Grantee's remedies at law for any violation of the terms this Conservation Easement may be inadequate and that the Grantee may seek injunctive relief described in Section 13.C. both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this Section 13 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

F. All reasonable costs incurred by the Grantee in enforcing the terms of this Conservation Easement against the Grantor, including without limitation, reasonable costs and expenses

of suit, reasonable attorneys' fees, and any costs of restoration necessitated by the Grantor's breach of this Easement shall be borne by the Grantor, provided that the Grantor is directly and primarily responsible for the breach and as determined in the judicial enforcement action; and provided further, however, that if the Grantor prevails in a judicial enforcement action each party shall bear its own costs and attorneys' fees.

G. Nothing contained in this Conservation Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Protected Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section 13, against any third party responsible for any actions detrimental to the Conservation Purposes of this Conservation Easement.

H. Only Grantor, Grantee, LCHIP, DES and Executory Interest Holder may bring an action to enforce this conservation easement, and nothing herein should be construed to grant any other individual or entity standing to bring an action hereunder, unless otherwise provided by law; nor to grant any rights in the Protected Property by adverse possession or otherwise, provided that nothing in this Conservation Easement shall affect any public rights in or to the Protected Property acquired by common law, adverse possession, prescription, or other law, independently of this grant.

#### **➤ SECTION 14 – EXECUTORY INTEREST and RIGHTS OF ENFORCEMENT ◀**

A. Right of Access. The Executory Interest Holder and LCHIP shall each have the right to access the Property and all of its parts for such inspection as either party finds necessary to determine compliance with the terms of this Easement, to exercise the rights conveyed hereby, to carry out the duties assumed herein or to maintain boundaries if either party so desires.

In the event of an emergency, LCHIP or Executory Interest Holder may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantor and Grantee's or Grantee's representative at the earliest practicable time.

B. LCHIP's Right of Enforcement. Notwithstanding the above, if Grantee ceases to enforce the Easement conveyed hereby or refuses to enforce it within thirty (30) days after receipt of written notice, delivered in hand or by certified mail, return receipt requested, from LCHIP, identifying: (a) the specific breach of conduct; (b) the specific failure on the part of the Grantee to enforce; and (c) requesting such enforcement, then LCHIP shall have the right to enforce this Easement by filing an action in a Court of competent jurisdiction.

C. State of New Hampshire's Executory Interest. The State of New Hampshire is granted an Executory Interest in the Conservation Easement conveyed hereby. Should Grantee cease to enforce the Conservation Easement conveyed hereby or refuse to enforce it within thirty (30) days after receipt of written notice, delivered in hand or by certified mail, return receipt requested, from the Executory Interest Holder, identifying: (a) the specific breach of conduct; (b) the specific failure on the part of the Grantee to enforce; and (c) requesting such enforcement, the Executory Interest Holder shall then have the right, but not the obligation, to request that a Court of competent jurisdiction terminate the interest of the Grantee in the Property, but not terminate the Conservation Easement, by filing an action to quiet title in the appropriate Court. If said Court determines that a material breach of conduct has occurred, and that Grantee has failed to enforce this Conservation Easement, then the rights and obligations under this Conservation Easement shall immediately vest in the Executory Interest Holder who shall then assume all interests and responsibilities granted to the Grantee in this Conservation Easement. The dispute resolution provisions in Section 13.B. and 13.C shall not apply to the Executory Interest Holder, unless the Executory Interest is assigned by the State of New Hampshire to a third party.

D. Right to Recover Costs. *From Grantor.* In the event LCHIP exercises its right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Conservation Easement from Grantor, including, but not limited to, attorneys' fees and expenses related to Grantor's violations. However, if LCHIP initiates litigation against the Grantor and a court of competent jurisdiction determines that a material breach of conduct on the part of the Grantor has not been established, each party shall bear its own costs. Notwithstanding the foregoing, if the court determines that either LCHIP or the Executory Interest Holder initiated litigation against the Grantor without reasonable cause or in bad faith, then the initiating party shall reimburse the Grantor's reasonable costs incurred in defending the action.

*From Grantee.* In the event Executory Interest Holder or LCHIP exercise their respective rights of termination or enforcement conveyed herein each shall be entitled to recover any and all administrative and legal costs associated with any action related thereto from the Grantee, including, but not limited to, attorney and consultant fees, staff costs, and other reasonable expenses related to Grantee's failure to enforce the Conservation Easement. However, if Executory Interest Holder initiates litigation against the Grantee to terminate the Grantee's interest in this Conservation Easement and a court of competent jurisdiction determines that a material breach of conduct on the part of the Grantee has not been established, each party shall bear its own costs. Notwithstanding the foregoing, if the court determines that either LCHIP or the Executory Interest Holder initiated litigation against the Grantee without reasonable cause or in bad faith, then the initiating party shall reimburse the Grantee's reasonable costs incurred in defending the action.

E. Right to Take Action.

E. General Disclaimer. The State of New Hampshire and LCHIP, and the employees, agents, and assigns of each disclaim and will not be held responsible for Grantor's or Grantee's negligent acts or omissions or Grantor's or Grantee's breach of any representation, warranty, covenant, or agreements contained in this Conservation Easement, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the State of New Hampshire or LCHIP may be subject or incur relating to the Protected Property.

#### **➤ SECTION 15 – CONDEMNATION / EXTINGUISHMENT ◀**

This Conservation Easement constitutes a real property interest immediately vested in the Grantee, LCHIP and Executory Interest Holder (hereinafter the "Parties").

A. Extinguishment. If circumstances arise in the future so as to render the Conservation Purposes of this Conservation Easement impossible or impracticable to accomplish, this Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Conservation Area subsequent to such judicial termination or extinguishment, shall be determined in accordance with the Subsection "Allocation of Proceeds" below. In making this grant of Conservation Easement, Grantor has considered and acknowledges the possibility that uses prohibited by the terms of this Conservation Easement may become more economically viable than the uses specifically reserved by Grantor pursuant to this Conservation Easement. It is the specific and considered intent of Grantor and Grantee and LCHIP that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Conservation Easement pursuant to this Subsection "Extinguishment."

B. Condemnation. If all or any part of the Conservation Area is taken, in whole or in part, by exercise of the power of eminent domain or is acquired by purchase in lieu of condemnation, whether by public, corporate or other authority, so as to terminate this Conservation Easement, in whole or in part, Grantor and Grantee shall act jointly to defend the Conservation Easement from such taking or seek to recover the full value of their interests in the Conservation Area subject to the taking or in lieu purchase and to recover all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered, the balance of which shall hereinafter be referred to as the "Net Proceeds". That portion of the Net Proceeds to which the Grantor and the Parties shall each be entitled shall be determined as follows:

C. Valuation. The Grantor and Parties hereby stipulate that the fair market value of the Conservation Easement (hereinafter the "Proportionate Share") is \_\_\_\_\_ percent of the fair market value of the Protected Property unencumbered by this Conservation Easement, based on an appraisal dated \_\_\_\_\_, 20\_\_\_\_ by Browning Valuation Services, LLC, an appraiser licensed in the State of New Hampshire, which appraisal determined the



fair market value of the Conservation Easement. The Proportionate Share shall remain constant over time, except that any increase in value attributable to improvements made after the date of this Conservation Easement shall accrue to the party who made the improvements.

D. Allocation of Net Proceeds. At the time of any extinguishment or condemnation action, Grantor must reimburse the Parties a portion of the Net Proceeds, said portion to be determined by multiplying the Net Proceeds by the Proportionate Share. Said portion shall be allocated to the Parties as follows: to the Grantee \_\_\_\_ XX Percent of the Proportionate Share of the Net Proceeds, and to the LCHIP \_\_\_\_ XX percent of the Proportionate Share of the Net Proceeds, said shares representing the proportion each party contributed to the purchase price of this Conservation Easement; and after those payments are made, Grantor shall retain the balance.

Until such time as Grantee and LCHIP receive their portion of the Proportionate Share of the Net Proceeds from Grantor or Grantor's successor or assigns, Grantee and LCHIP shall each have a lien against the Protected Property for the amount due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, Grantee must reimburse LCHIP for the amount of the Proportionate Share of the Net Proceeds due to LCHIP, and pay the balance due to the Grantor.

Grantee shall use its share of the proceeds in a manner consistent with and in furtherance of one or more of the Conservation Purposes set forth herein.

E. Notice to New Hampshire Department of Environmental Services. The Grantor and Grantee together shall notify the New Hampshire Department of Environmental Services and the New England District of the U.S. Army Corps of Engineers thirty (30) days prior to taking any action under this Section 15.

#### **➤ SECTION 16 – NO MERGER ◀**

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Conservation Easement set forth herein are to last in perpetuity and that, to that end, no purchase or transfer of the underlying fee interest in the Protected Property by or to the Grantee, the Executory Interest Holder or LCHIP shall be deemed to eliminate these Conservation Easement terms, or any portion thereof, pursuant to the doctrine of "merger" or any other legal doctrine. In the event of any foreclosure or other exercise of rights under the right of termination included herein by the Executory Interest Holder or LCHIP the Protected Property secured thereby shall continue to be subject to all of the restrictions and other terms and conditions set forth in this Conservation Easement.

#### **➤ SECTION 17 - SEVERABILITY ◀**

If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Conservation Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby. This instrument, the Survey Plan, and the Baseline Documentation set forth the entire

agreement of the parties with respect to the Conservation Easement and supersede all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement, all of which are merged herein.

#### **➤ SECTION 18 - SUBORDINATION ◀**

As of the date of this Conservation Easement, Grantor believes that there are no liens or mortgages outstanding against the Protected Property, except those described in the title report included in the Baseline Documentation Report. Any mortgage or lien arising after the date of recording of this Conservation Easement Deed shall be subordinated, by operation of law or otherwise, to the terms of this Conservation Easement. Under no circumstances may Grantee's rights be extinguished or otherwise affected by the recording, foreclosure or any other action taken concerning any subsequent lien or other interest in the Protected Property.

#### **➤ SECTION 19 – NO WAIVER OF RIGHT TO TAKE ACTION ◀**

The Grantee, Executory Interest Holder, DES and LCHIP do not waive or forfeit the right to take action as may be necessary to insure compliance with this Conservation Easement by any prior failure to act, and Grantor and Grantee hereby waive any defense of laches or estoppel with respect to any delay or omission or action by the Grantee, the Executory Interest Holder, DES or LCHIP in acting to enforce any restriction or exercise any rights under this Conservation Easement, any such delay or omission shall not impair Grantee's, the Executory Interest Holder's, DES's, or LCHIP's rights or remedies, or be construed as a waiver.

#### **➤ SECTION 20 – FUTURE CONVEYANCE, TRANSFER, OR ASSIGNMENT ◀**

Any holder of an interest in this Conservation Easement required or desiring to convey, transfer or assign its interest shall send written notice of such proposed action to all other holders of any interest in this Conservation Easement at least thirty (30) days prior to such conveyance, transfer or assignment taking effect. Upon receipt of such notice, Grantor shall have an opportunity to direct or otherwise influence the action by providing a list of preferred Qualified Successor Organizations to the notifying holder and/or to any court of competent jurisdiction assigned the responsibility of appointing such a successor. All parties shall make a good faith effort to assign, convey or transfer the interest to a preferred Qualified Successor Organization prior to engaging an organization not so listed; however, no interest holder shall be obligated to do so. The provisions of this section shall not apply in the case of a merger between the Upper Saco Valley Land Trust and another land trust. Notwithstanding the foregoing, in the event the Executory Interest Holder exercises its right of extinguishment, the Executory Interest Holder shall have no obligation to assign the Conservation Easement to a successor.

#### **➤ SECTION 21– DISCRETIONARY APPROVAL AND AMENDMENT ◀**

A. Grantor and Grantee acknowledge that, in view of the perpetual nature of this Conservation Easement, they are unable to foresee all potential future land uses, future technologies and future evolution of the land and other natural resources, and other future occurrences affecting the Conservation Purposes of this Conservation Easement. The parties recognize and agree that some future activities may require the discretionary consent of the Grantee, as further described below. To this end, the Grantee may exercise discretionary consent in accordance with all applicable governmental laws, rules, and/or regulations. Any exercise of discretionary consent shall be consistent with the Conservation Purposes and not significantly impair the Conservation Values.

Any request by the Grantor for discretionary consent shall be in writing, copied to LCHIP and DES, and shall describe the activity for which consent is sought in sufficient detail to allow the Grantee to judge the consistency of the request and of the proposed activity with the Conservation Purposes and other terms and conditions of this Easement. If a proposed exercise of discretionary consent has aspects which, in some respects, would be detrimental to the Conservation Purposes and/or would impair the Conservation Values, but, in other respects, enhance said Purposes and/or Values, then the Grantee shall evaluate the net effect of such impacts when considering any exercise of discretionary consent. Nothing in this Section shall require the Grantee to consider, negotiate, or approve any request for discretionary consent.

If the Grantor and the Grantee agree that any activity otherwise prohibited herein or not contemplated by the Easement is desirable, and if the Grantee determines, in its sole discretion, that such activity (i) is not detrimental to the Conservation Purposes of the Easement and (ii) would not have more than *de minimis* negative impacts on the Conservation Values protected hereby, the Grantee may then provide written consent to such activity, with a copy provided to LCHIP and DES.

B. Grantor and Grantee recognize that rare and extraordinary circumstances could arise which warrant modification of certain of the provisions of this Conservation Easement. This Conservation Easement may be amended only if, in the sole and exclusive judgment of the Grantee and LCHIP such amendment is consistent with the Conservation Purposes of this Conservation Easement and complies with all applicable laws and regulations. Any amendment shall be consistent with the Conservation Purposes of this Easement and shall not adversely impact the Conservation Values of the Property or the perpetual duration of the Easement or the qualification of this Easement or status of the Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, and NH RSA 477:45-47 as may be amended from time to time. Any amendment shall be mutually agreed upon and executed by the Grantor, Grantee, and LCHIP, subject to review by the N.H. Attorney General's Office, Charitable Trusts Division as necessary, and shall be recorded in the Carroll County Registry of Deeds; nothing, however, in this paragraph shall require any party to agree to any amendment or to consult or negotiate regarding any amendment. Any purported amendment that is recorded without the prior approval of all Parties shall be null and void.

C. Notwithstanding the foregoing, except as provided by New Hampshire RSA 477:45-47 as amended, or except as approved by the New Hampshire Attorney General Charitable Trusts Unit or by a court of competent jurisdiction, any proposed discretionary consent approval or easement amendment agreed to by Grantee and Grantor must comply with all of the following:

1. Clearly serve the public interest and be consistent with Grantee's mission;
2. Comply with all applicable federal, state and local laws;
3. Not jeopardize the Grantee's tax-exempt status or status as a charitable organization under either federal or state law;
4. Not result in "private inurement" or confer impermissible "private benefit" (as those terms are defined for federal tax law purposes and N.H. RSA 7:19-a);
5. Be consistent with the Conservation Values and Stewardship Goals of this Conservation Easement;
6. Be consistent with the documented intent of the Grantor, Grantee, Executory Interest Holder, and LCHIP; and
7. Have a net beneficial or neutral effect on the Conservation Purposes and other possible natural resource or conservation attributes protected now or in the future by this Conservation Easement.

#### **➤ SECTION 22 – CONTROLLING LAW AND INTERPRETATION ◀**

The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of New Hampshire. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to affect the Conservation Purposes of this Conservation Easement and the policy and purpose of the New Hampshire RSA 477: 45-47, inclusive, as amended. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Conservation Purposes of this Conservation Easement shall govern.

#### **➤ SECTION 23 – INDEPENDENT REPRESENTATION ◀**

Grantor and Grantee have each retained legal counsel to represent only their interest in this transaction. Grantor and Grantee acknowledge and agree that they have not received and are not relying upon legal, tax, financial or other advice from each other. Grantor acknowledges that Grantee has recommended that they keep independent counsel.

#### **➤ SECTION 24 – RESTRICTIONS CONVEYED ON WATERFRONT AND CAMPGROUND EXCLUSION AREAS◀**

A. For the benefit and in aid of the Conservation Easement granted hereby and running therewith, the Grantor hereby also grants to the Grantee the right to enforce the following Restriction with respect to the Waterfront Exclusion Area:

1. The Waterfront Access Area shall not be further subdivided, and shall not itself be subdivided from and conveyed separately from the Protected Property.

B. For the benefit and in aid of the Conservation Easement granted hereby and running therewith, the Grantor hereby also grants to the Grantee the right to enforce the following Restriction with respect to the Campground Exclusion Area:

2. The Campground Exclusion Area shall not be further subdivided, and shall not itself be subdivided from and conveyed separately from the Protected Property.

*The Grantee, by accepting and recording this Conservation Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the Conservation Purposes for which this Conservation Easement is delivered.*

The Protected Property is subject to New Hampshire RSA 79-A, Current Use Taxation.

This is not homestead property.

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_,  
2020, as President of the New Hampshire World Fellowship Center, Inc.:

\_\_\_\_\_  
TBD

STATE OF NEW HAMPSHIRE

COUNTY OF CARROLL, SS

Personally appeared the above named **TBD**, personally known or proven to me to be the **President of the World Fellowship Center**, and acknowledged the foregoing instrument as his and the World Fellowship Center's voluntary act and deed, before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My Commission Expires \_\_\_\_\_

Notary Seal

ACCEPTED: **UPPER SACO VALLEY LAND TRUST**

By: \_\_\_\_\_

Print Name: **Douglas C. Burnell**

Title: \_\_\_\_\_ Date: \_\_\_\_\_, 2020  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF CARROLL, SS

Personally appeared the above named, **Douglas C. Burnell, personally known or proven to me to be the authorized representative of the Upper Saco Valley Land Trust**, and acknowledged the foregoing instrument as his/her and the Upper Saco Valley Land Trust's voluntary act and deed, before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expires: \_\_\_\_\_

Notary Seal

ACCEPTED: **NEW HAMPSHIRE**  
**LAND AND COMMUNITY HERITAGE INVESTMENT**  
**PROGRAM**

By: \_\_\_\_\_ Date: \_\_\_\_\_, 2020  
Dorothy D. Taylor, Executive Director

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK, SS.

Personally appeared the above named Dorothy T. Taylor, Executive Director of the New Hampshire Land and Community Heritage Investment Program, this \_\_\_\_\_ day of \_\_\_\_\_, 2020 and acknowledged the foregoing on behalf of the New Hampshire Land and Community Heritage Investment Program.

\_\_\_\_\_  
Notary Public/Justice of the Peace

My Commission Expires: \_\_\_\_\_

Notary Seal:



➤ APPENDIX A ◀

**CONSERVATION EASEMENT PROPERTY DESCRIPTION**

**TBD**

## Attachment B - Map

# Upper Saco Valley Land Trust World Fellowship Center

- World Fellowship Center Proposed Conservation Lands
- Conservation Lands
- Wellhead Protection Areas
- Hydrologic Areas of Concern
- Public Water Supply Wells
- Hydrography
- Town Boundaries
- Roads

Total Acres= 422.0 Ac.  
Eligible Acres= 64.0 Ac.

The coverages presented are under constant revision as new sites or facilities are added. They may not contain all of the potential or existing sites or facilities. NHDES is not responsible for the use or interpretation of this information. Not intended for legal purposes.

9/30/2019

0 625 1,250 2,500 Feet

