

GRANTOR: Westport Land Conservation Trust, Inc.
PRIMARY GRANTEE: Town of Westport
Secondary Grantee: Westport Land Conservation Trust, Inc.
ADDRESS OF PREMISES: 764 Pine Hill Road,
Westport, Massachusetts 02790
FOR GRANTOR’S TITLE SEE: Bristol County
Registry of Deeds at Book _____, Page _____.

**GRANT OF CONSERVATION RESTRICTION AND
RIGHT OF FIRST REFUSAL**

I. STATEMENT OF GRANT

WESTPORT LAND CONSERVATION TRUST, INC., a Massachusetts non-profit corporation with an address of 573 Adamsville Road, Westport, Bristol County being the sole owner of the Premises as defined herein, constituting all of the owner(s) of the Premises as defined herein, for its successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grants, with QUITCLAIM COVENANTS, to TOWN OF WESTPORT, a municipal corporation in Bristol County, Massachusetts, acting by and through its Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with offices at 816 Main Road, Westport, Massachusetts, 02790, its successors and permitted assigns (the “Primary Grantee”), and to the WESTPORT LAND CONSERVATION TRUST, INC., a Massachusetts non-profit corporation with an address of 573 Adamsville Road, Westport, MA 02790, and its successors and permitted assigns (the “Secondary Grantee”) (together, the "Grantees"), for Three Hundred and Fifty Thousand Dollars (\$350,000.00), IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Town of Westport, Massachusetts containing 42.56 acres +/- (“Premises”), which Premises is more particularly described as the entirety of Lot 2 in Exhibit A and shown in the attached reduced copy of a survey plan in Exhibit B both of which are incorporated herein and attached hereto. As used herein, the terms “Grantee” and “Grantees” shall refer to the Primary Grantee and the Secondary Grantee collectively.

The Conservation Restriction was acquired utilizing, in part, Community Preservation Act funds pursuant to Chapter 44B of the Massachusetts General Laws, which funds were authorized for such purposes by a vote of the Town of Westport Town Meeting held on Tuesday, May 3rd, 2022, an attested copy of which vote is attached hereto as Exhibit C (the “CPA Vote”). Pursuant to Section 12(b) of Chapter 44B of the Massachusetts General Laws, and pursuant to the CPA Vote, the Town’s interest in the Premises, and therefore the management of the Town’s interest in the Premises, is under the care, custody, and control of the Conservation Commission of the Town of Westport.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to protect and enhance the scenic landscape and open space character of Pine Hill Road; to allow for sustainable and sound management of the agricultural resources on the Premises and to promote such use; to ensure resale of the Premises at Fair Market Agricultural Value (as defined in Paragraph IV, below), in order to ensure the availability of farmland in Massachusetts and ensure those entering or currently engaged in commercial agricultural operations are able to acquire agricultural land at a price that is tied to the land's agricultural value; to protect the natural resources of the Premises including but not limited to woodlands, wetlands, soils, wildlife, and biological diversity thereon; to ensure that the Premises will be maintained in perpetuity for the said purposes; and to prevent any use of the Premises that will materially impair or interfere with its conservation and agricultural values (“Conservation Values”).

For many decades, the Premises have been a cherished farm and community resource for Westport residents, due to its scenic character, excellent soils and importance to Westport’s agricultural economy. The Grantees have partnered to ensure the permanent protection of the Premises and its continued use for agriculture. The Westport Land Conservation Trust, Inc., has acquired the fee interest in the Premises with the intent of granting this Conservation Restriction to the Town of Westport (Primary Grantee) and itself and then selling the fee interest to a qualified agricultural buyer subject to the terms of the Restriction. Therefore, it is the intent of the parties hereto that the conveyance of this Conservation Restriction shall not result in a merging of interests and that the Conservation Restriction shall remain in full force and effect in order for the Westport Land Conservation Trust, Inc., and the Town of Westport to meet their shared goal of holding this Restriction as co-Grantees with the fee interest owned by a third party.

The Conservation Values protected by this Conservation Restriction include the following:

- Protection of Prime Agricultural Soils. The Premises include approximately 4 acres of soils classified as Prime Agricultural Soils and 12 acres classified as soils of statewide significance, according to the Bristol County Soil Survey of the Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- Promotion of Local Agriculture. The Town of Westport seeks to preserve its agricultural heritage and support its agricultural economy and has facilitated those goals through (a) the passage of a Right to Farm Bylaw, (b) the establishment of an Agricultural Commission, and (c) the creation of the Agricultural/Open Space Preservation Trust Fund. The Commonwealth of Massachusetts likewise seeks to support agriculture through a variety of programs and initiatives, including the Agricultural Preservation Restriction Program, Farmer’s Market Program, and Farm Improvement Grant Program, all managed by the Massachusetts Department of Agricultural Resources. Preserving the

Premises will further the goals of the community and Commonwealth by ensuring the continued use of the agricultural portions of the Premises for farming.

- Scenic Protection. The Premises include approximately 1,065 feet of frontage on Pine Hill Road and provide scenic views of open fields and farmland from the road. Preservation of the Premises as a farm will encourage the continued scenic character of the Premises and the Town.
- Water Quality Protection. The Premises lies in the watershed of Allen Creek and the East Branch of the Westport River. Protection of the Premises will maintain water quality in these waterways by restricting certain activities that commonly degrade water quality and prohibiting permitted dwellings, thereby eliminating septic systems, runoff, and water consumption commonly associated with such dwellings.
- Wetlands. The Premises includes approximately 25 acres designated as wooded marsh and a portion of the Premises contains marsh/bog identified by the Massachusetts Department of Environmental Protection, which provide valuable habitat for a diverse array of wildlife species as well as provide the many other public benefits of wetlands protection recognized by the Commonwealth of Massachusetts (Section 40 of Chapter 131 of the Massachusetts General Laws).
- Natural Resource Preservation. The Premises include a variety of wildlife habitats, including fields, woodlands, and wooded wetlands, which support a variety of plants and animals. The protection of the Premises will preserve these habitats and benefit the plants and wildlife that rely on them.
- Furtherance of Government Policy
 - a) Town of Westport. Protection of the Premises is consistent with the Town of Westport's most recent Open Space and Recreation Plan which has among its goals (i) to identify and protect forest and woodland areas that are critical to habitat and green infrastructure services (air, water, soil quality; shade; wind break) [Goal 1: Objective D] and (ii) to promote conservation of agricultural land and retention of working farms through the various means available [Goal 1: Objective E.]
 - b) Town of Westport. The Town of Westport appropriated \$350,000 from its Community Preservation Act Funds to acquire this Conservation Restriction and in so doing further facilitated the protection of the Premises.

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;
7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdivision or conveyance of a part or portion of the Premises alone, or residential division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety, which shall be permitted); however, conveyance of a part or portion of the Premises, or division or subdivision of the Premises in order to convey said part or portion of the Premises to a conservation organization for conservation purposes shall be permitted with the prior written approval of the Grantees, or in connection with the Grantees exercising their Right of First Refusal as described in Paragraph IV to purchase all or a portion of the Premises. Nothing herein shall prohibit the conveyance of the Premises in its entirety, subject to the terms hereof;

9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Residential or Industrial Uses. Using the Premises for residential or industrial purposes, except as provided in Paragraph III.C.;
12. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A., the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XVI.);
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. The stockpiling, composting and occasional burning of stumps, trees brush, limbs and similar biodegradable materials *originating on the Premises*, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the Conservation Values (including water quality and scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, water body or stream or brook. All exercise of this Permitted Use shall take into account sensitive areas and avoid harm to nesting species during nesting season. Piles shall not be burned during the nesting season, as identified by the Natural Heritage and Endangered Species Program (or its successor agency with a similar purpose);
4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;

5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;
6. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to eight (8) feet in width overall, with a treadway up to ten (10) feet in width.
 - b. New Trails. With prior written approval of the Grantee, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitations above.
 - c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
7. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
8. Fences. Existing fences may be repaired and replaced and new sight-pervious fences, including electric livestock fences, may be built on the Premises as necessary for Agricultural Activities, including customary management of livestock, and to delineate the boundary of the Premises. Fences which materially obstruct the vista of the Premises from Pine Hill Road shall not be permitted.
9. Stone Walls. With prior written notice to Grantees, the right to build, maintain, remove or alter stone walls in order to: (a) gain entrance to portions of the Premises for the purposes related to the permitted acts and uses in this Paragraph III.B., provided that any such removal or alteration is limited to the extent necessary for this purpose, (b) reconstruct or improve existing stone walls with walls of the same type and in the same location, (c) define property boundaries and (d) keep the stone walls free of vegetation in a manner that does not impair water quality. Both new and repaired walls must be in the same style and material as existing walls. Use of field stone, boulders and ledge found on the Premises to repair and construct stone walls shall be permitted.

10. Motorized Vehicles. The use of motor vehicles as reasonably necessary in exercising the permitted acts and uses, provided that, with the exception of Agricultural Activities, such use shall be limited to existing trails and farm and woods roads so as to not cause erosion or other adverse impacts on the Conservation Values of the Premises, and further provided that non-motorized uses are impractical. Motor vehicles, including all-terrain vehicles, shall not be used for recreational purposes.
11. Outdoor Passive Recreational and Educational Activities. Fishing, canoeing and other non-motorized boating, swimming, hunting, trapping, hiking, horseback riding, cross-country skiing, snowshoeing, ice-skating, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities;
12. Harvesting of Firewood for Personal Use. The sustainable cutting of trees only for the Grantor's personal use, not to exceed 4 cords per year or equivalent volume, provided that any such cutting complies with the Forestry Best Management Practices as established by the USDA Forest Service.
13. Agricultural Activities.
 - a. Permitted Activities. "Agricultural Activities" are collectively defined as "Animal Husbandry" and "Horticulture," defined below:
 - i. Animal Husbandry. Raising animals, including but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, and bees, for the purpose of using, consuming, or selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for use, consumption, or market.
 - ii. Horticulture. Raising fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs, all for the purpose of selling such products in the regular course of business, provided that such sale of plants shall exclude species on the Massachusetts Prohibited Plant List maintained by the Massachusetts Department of Agricultural Resources, or a successor thereto; or when primarily and directly used in raising forest products under a Forest Stewardship Plan designed to improve the quantity and quality of a continuous crop for the purpose of using, consuming, or selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising such products and preparing them for use, consumption, or market.
 - b. Requirement to Follow Best Agricultural Practices. Agricultural Activities shall be conducted in a manner consistent with generally accepted best management

practices for sustainable farming as those practices may be identified from time to time by appropriate governmental or educational institutions such as the USDA Natural Resources Conservation Service (NRCS), UMass Extension, Northeast Organic Farming Association (NOFA), Massachusetts Department of Agricultural Resources, and the like, (collectively, “Best Agricultural Practices”) and in a manner that promotes healthy soils and healthy soil practices, as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws (“Healthy Soils and Practices”), and in a manner that does not hinder the ability of future generations to engage in Agricultural Activities on the Premises;

- c. Requirement for a Farm Conservation Plan. Agricultural Activities shall require a farm conservation plan, such as an NRCS Conservation Plan (“Farm Conservation Plan”), prepared for the Premises, and approved in writing by the Grantee. The Farm Conservation Plan shall be developed in accordance with generally-accepted Best Agricultural Practices, and shall, at a minimum, address the following:
 - i. establish wetland buffers and/or filter strips to prevent adverse impacts to the water quality of existing wetlands and waterways;
 - ii. in the event animal husbandry activities are proposed, establish and govern the type and number of each type of animal unit permitted on the Premises, and analyze the pasturage potential of the Premises and establish and govern the cycling of pasturage, and any other measures necessary to ensure the carrying capacity of the Premises is not exceeded in order to protect water quality, prevent soil erosion, and otherwise protect the Conservation Values; and
 - iii. describe how Agricultural Activities will maximize soil and water conservation, and promote Healthy Soils and Practices.

- d. Agricultural Structures and Improvements. Constructing and maintaining structures and improvements to conduct Agricultural Activities, provided:
 - i. The total footprint (as defined herein) of all permanent structures and any temporary structures (as defined below) that have a roof shall not exceed 3,200 square feet, except that the total footprint may include an additional 2,400 square feet (for a total not to exceed 5,600 square feet) with the prior written approval from the Grantee. For the purposes of this Conservation Restriction, the term “footprint” shall mean that measurement encompassing the enclosed ground floor area, as measured from the exterior, at the point of contact with the ground.
 - ii. Grantor must obtain prior written approval from the Grantee for the following improvements:
 - 1. Wells, including but not limited to artesian wells, and any irrigation structures that require subsurface installation;
 - 2. Permanent Structures;

- iii. The following improvements are permitted without prior approval from the Grantee:
 - 1. Temporary Structures. Constructing, using, maintaining, repairing, and/or replacing temporary structures and improvements directly related to or in support of Agricultural Activities, including, but not limited to, fencing that complies with the terms of Paragraph III.B.8. above, hayracks, “run-in” shelters or other three-sided shelters, hoop houses (also known as “high tunnels”), and the like. For the purposes of this Conservation Restriction, the term “temporary” shall mean any improvement without a foundation that can be constructed or removed without significant disturbance of the soil;

- e. Retail Sale of Products. Marketing and wholesale or retail sale of agricultural, arboriculture, or horticultural products, provided that such products originating from the Premises shall always constitute no less than 50% of gross sales and, of the remaining 50% of sales, not less than 25% shall originate from the Commonwealth of Massachusetts. Retail sales may be conducted in a structure on site that shall not exceed 800 square feet of footprint at grade and whose area will be included in the 3,200 square foot limitation listed in Paragraph II.B.13.d.i.

- f. Agri-tourism. The use of the Premises for “Agri-tourism” activities, which activities shall be defined as ancillary commercial activities and events that support the financial viability of the use of the Premises for Agricultural Activities, which activities shall be limited to farm-based education such as addressing the subjects of sustainable agriculture, food production and nutrition, and/or environmental conservation and ecology; with prior approval of the Grantee, Grantor may host events, festivals, and unrelated educational activities such as painting or yoga classes, and the like, and up to six (6) recreational events, weddings, or similar types or scale of events not to exceed a total of 20 days per year, provided that said events shall be incidental and subordinate to the primary use of the Premises for Agricultural Activities.

- g. Notwithstanding the above, the following activities shall require prior written approval of Grantees, at their sole discretion, as well as the prior approval of the Westport Board of Selectmen, as outlined in Paragraph II.F.1.e., below:
 - a. Growing, processing, consumption or any commercial activity related to marijuana crops or products derived from marijuana, and provided that Grantor complies with the requirements of the Cannabis Control Commission and all other applicable federal, state and local laws, rules, regulations, and permits; and

- b. Any onsite sale or service for consumption of products containing alcohol to the general public ancillary to permitted uses set out in Paragraph III.B.13.e. or Paragraph III.B.13.f. above.

However, the legal personal consumption of products containing marijuana and alcohol by the owners and/or residents of the Premises and their guests shall be permitted.

14. Farm Roads. The use, maintenance, and repair of the existing farm roads, as shown in the Baseline Report, and, with prior written approval of the Grantees, the construction of new farms roads, all used in connection with the Agricultural Activities described in Paragraph III.B.13., above.
15. Utilities. The installation, use, maintenance, repair and replacement of electricity, phone and cable lines, including the granting of utility easements as may be required by utility providers, including but not limited to electricity, phone, and cable lines, solely to serve the residence and appurtenant structures in the Special Use Area as shown on the Plan or agricultural structures and improvements as defined in Paragraph III.B.13., above, provided that any such utilities are constructed to minimize any impact on the Conservation Values;
16. Green Energy. With prior written approval of the Grantee, constructing energy producing structures and associated transmission lines that produce negligible or no pollution or carbon emissions (“Green Energy Structures”) to supply power for any Permitted Acts and Uses on the Premises. In addition to the terms of Paragraph III.E., when considering whether to grant approval, the Grantee will take into consideration the energy needs related to the relevant Permitted Act(s) and Use(s). While it is agreed that some power may be fed back into the public power grid during high production periods, such Green Energy Structures shall be limited to a capacity not higher than that necessary to meet, or exceed by up to 20% at the time of installation, the power requirements of the Permitted Acts and Uses;

C. Special Use Area

The Grantor reserves the right to conduct or permit the following activities and uses only within the area shown on the Plan as “Special Use Area” in addition to the Permitted Acts and Uses described in Paragraph III.B., and otherwise subject to this Conservation Restriction:

1. The right to construct, use, repair, and replace one (1) single-family dwelling within the Special Use Area, such a dwelling not to exceed 1,500 square feet of footprint at grade and a maximum height of any part of the dwelling of 35 feet, provided that there shall be no more than one (1) single-family dwelling at any one time within the Special Use Area;

2. Constructing, using, maintaining, repairing, improving, or replacing a driveway, yard, parking area, well, and septic system (“Improvements”) but not to locate such Improvements outside of the Special Use Area; provided, however, that with prior written approval from the Grantees, a well and septic system may be located outside of the Special Use Area if a qualified professional certifies in writing that there is no feasible location for any such improvement within the Special Use Area, such a finding not to consider financial feasibility, and further provided that any of these Improvements serves only the permitted single family dwelling located within the Special Use Area.

D. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

E. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

F. Notice and Approval

1. Notifying Grantees. Whenever notice to or approval by Grantees is required, Grantor shall notify or request approval from Grantees, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
 - e. For activities reserved in Paragraph II.B.13.g.a. and Paragraph II.B.13.g.b., include written approval for such activities from the Westport Board of Selectmen following discussion of same at the Grantor’s request at a regular

public meeting of the Board. Grantees may not approve such activities without the prior written approval of the Board of Selectmen.

2. Grantee Review. Where Grantee's approval is required, the Secondary Grantee, within thirty (30) days of receipt of Grantor's request, shall notify the Primary Grantee of the Secondary Grantee's decision. Within sixty (60) days of the Primary Grantee's receipt of Grantor's request, the Primary Grantee shall either affirm, amend or reverse the decision of the Secondary Grantee, shall notify the Secondary Grantee thereof in writing, and shall issue its decision to the Grantor in writing. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no decision is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall proceed to issue its decision within sixty (60) days of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. RIGHT OF FIRST REFUSAL TO PURCHASE PREMISES AT FAIR MARKET AGRICULTURAL VALUE

A. The term Fair Market Agricultural Value (or "FMAV") of the Premises shall mean the total of (i) the fair market value of the land within the Premises based upon its highest and best use for agricultural purposes, including such considerations as location, types of soil, and climate, (ii) the fair market value of any agricultural structures and infrastructure on the Premises, taking into consideration this Conservation Restriction, and (iii) the then-fair market value of any residence and appurtenant residential structures, if any, within the Special Use Area, taking into consideration this Conservation Restriction.

B. The Grantees (which term when used hereafter solely in Paragraph IV shall mean the Primary Grantee if it so elects or otherwise the Secondary Grantee) shall have a contractual Right of First Refusal ("ROFR") to purchase the Premises at Fair Market Agricultural Value in accordance with the provisions of this section. This ROFR has been granted as an integral part of this Conservation Restriction, the full consideration for which is set forth above and shall also be for the benefit of any adjoining land owned by either Grantee. This ROFR shall run with the land and shall be binding in the event of a foreclosure of said Premises. This contractual ROFR shall not become effective until after the first conveyance of the fee interest of the entire Premises after this Conservation Restriction is recorded, which first conveyance will be from the Westport Land Conservation Trust, Inc. to a third party, but shall thereafter become effective and shall apply to any conveyance thereafter by the then owner of the Premises.

C. The intent of this ROFR is to ensure resale of the Premises at FMAV. Accordingly, the parties hereto agree to the following process:

1. Upon executing a bona fide Purchase and Sale Agreement for the sale of the Premises with a third party purchaser, the Grantor shall provide to the Grantees (a) a written notice stating the Grantor's intent to sell the Premises ("Grantor's Notice of Intent"), (b) a true, correct, complete and fully executed copy of such bona fide Purchase and Sale Agreement with a third party to purchase the Premises ("P&S Agreement"), and (c) an appraisal of the FMAV of the Premises, as defined above (the "Grantor Appraisal"). Said P&S Agreement and the Grantor Appraisal must relate only to the Premises; any other land transferring simultaneously but not covered by this ROFR shall be subject to a separate purchase and sale agreement.
2. Upon receipt of the Grantor's Notice of Intent with supporting P&S Agreement and Grantor Appraisal, the Grantees, at their election, shall have the right to exercise their right of first refusal or assign the right of first refusal (see Paragraph IV.C.8., below). In the event the Grantees disagree with the Grantor Appraisal, Grantees shall have the right to obtain their own appraisal (the "Grantee Appraisal"), at the Grantees' expense. If the Grantor does not agree with the Grantee Appraisal and informs Grantees of the same within fifteen (15) days from receipt of the Grantee Appraisal, there shall be a third appraisal conducted by an appraiser chosen by the two original appraisers for the Grantor and Grantees, the expense of which shall be equally shared between the Grantor and the Grantees, to determine the FMAV of the Premises. In the event that the sale price as set forth in the P&S Agreement is less than the FMAV determined by the procedures set forth above, the Grantees shall have the right to purchase the Premises from the Grantor or assign their right to purchase the Premises from the Grantor for this lesser amount.
3. Upon receipt of the Grantor's Notice of Intent with supporting P&S Agreement and Grantor Appraisal, Grantees shall have sixty (60) days (the "First Response Period") to notify the Grantor in writing of their election to purchase the Premises at FMAV (or any lesser sale price set forth in the P&S Agreement) or waive their rights under the ROFR. If the Grantees dispute Grantor Appraisal, the Grantees shall deliver a copy of the Grantee Appraisal within said First Response Period. If Grantor disputes the Grantee Appraisal, the parties shall obtain a third appraisal as provided above (the "Final Appraised Amount"). The Grantees shall, within thirty (30) days from the date that the third appraisal is delivered to the parties (the "Second Response Period"), notify Grantor in writing if Grantees elect to exercise its ROFR to purchase the Premises at the Final Appraised Amount or the purchase price set forth in the P&S Agreement, whichever is less. The parties acknowledge and agree that the exercise of the ROFR by the Primary Grantee may be contingent on Town Meeting authorization and an appropriation of said funds by Town Meeting and by Town election (the "Condition").
4. In the event that the Grantees elect to exercise this ROFR to purchase the Premises (and, in the case of the ROFR exercised by the Primary Grantee, provided that the Condition has been satisfied prior to the closing), the deed shall be delivered and the consideration paid at the Southern Bristol County Registry of Deeds before 11 o'clock a.m. on or

before the one-hundred-eightieth (180th) day after receipt of Grantor's Notice of Intent or, if a third appraisal was obtained, before the one-hundred-twentieth (120th) day following the expiration of the Second Response Period. If said closing date falls on a Saturday, Sunday, or holiday, the closing shall occur on the next business day thereafter, and the deed shall convey a good and clear record and marketable title to the Premises free of all encumbrances, except those in existence at the time of the recording of this Conservation Restriction (but with all mortgages and other monetary liens removed), and the Premises shall be in the same condition as at the time of such notice, reasonable wear and tear and use thereof excepted. The date, time and location of the transfer may be amended by written mutual agreement of the Grantor, Grantees, and any assignee, if applicable.

5. The Grantor may sell the Premises to the third party purchaser pursuant to a bona fide P&S Agreement, as provided in Paragraph IV(C)(1), above, only in the event that the Grantees:
 - a. decline in writing to exercise their rights under this ROFR within the specified time period; or
 - b. fail to exercise their rights under this ROFR in writing within the specified time period; or
 - c. having elected to exercise their rights under this ROFR, fail to complete the purchase within the specified time period, provided that the failure to complete the purchase is not based upon a failure or delay by the Grantor.

Said sale of the Premises to the third party purchaser named in the P&S Agreement (or such purchaser's nominee) must take place within one (1) year following the date by which the Grantees were required to notify the Grantor of their election of their right to exercise its ROFR as provided in Paragraph IV.C.3. above or, if the ROFR is exercised, within one (1) year following the Grantees' failure to close within the specified time as provided in Paragraph IV.C.4. above, and, in either case, be only upon the same price and other terms and conditions contained in said P&S Agreement. The third party purchaser shall purchase the Premises subject to this Conservation Restriction, including the ROFR held by Grantees hereunder.

6. The obligations of the Grantor under this ROFR shall not apply if the transfer of ownership of the Premises is (1) to the Grantor's spouse, parent, child(ren) or grandchild(ren) (whether by blood, marriage or adoption), siblings and/or their child(ren) or grandchild(ren) (whether by blood, marriage or adoption); or (2) through a devise of said Premises by will or intestacy of the Grantor; or (3) a conveyance of an interest in the Premises to a co-owner of the Premises; provided that this ROFR shall continue to encumber the Premises following any such event.
7. Any notices required by this ROFR shall be in writing and shall be deemed delivered if delivered in accordance with Paragraph XIV, below. The Grantee exercising the ROFR shall be entitled to record the notice of exercise of the ROFR, which shall terminate and be released of record if the Grantee exercising said right fails to purchase the Premises within the time set forth herein.

8. The Grantees may assign their right to purchase the Premises under this ROFR after providing the Grantor with their notice to exercise their right to purchase the Premises, provided that the right to purchase the Premises may only be assigned to a party that commits to compliance with Paragraph VI and, in the Grantees' opinion, will use or facilitate the use of the Premises for commercial agriculture. Any assignment shall only be effective when made in writing, signed by the Grantees, and duly recorded with the appropriate registry of deeds.
9. Any waiver of the Grantees' rights under this ROFR shall be in writing and in a form and format suitable for recording in the appropriate registry of deeds. This waiver shall serve to satisfy the Grantor's obligations to the Grantees under this ROFR with regard to the third-party purchaser who entered into the P&S Agreement referred to above.
10. In the event the Grantees elect to exercise their rights under this ROFR to purchase the Premises, the Grantees must comply with the requirements of Paragraph XII prior to accepting the fee interest in the Premises.

D. The rights and obligations of the Grantor hereunder shall inure to and benefit the Grantees and shall be binding upon the Grantor and all successors in title, subject to the provisions of M.G.L. c. 184A, § 5(a) (for the Secondary Grantee) and 5(d) (for the Primary Grantee), to the extent the rule against perpetuities applies to said ROFR.

V. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights

described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.

3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.
4. Coordination between Primary and Secondary Grantee. Whenever there is a question of whether there is a violation of this Conservation Restriction, or how to proceed in addressing the violation, the Primary Grantee shall consult with the Secondary Grantee. The Primary Grantee shall then determine whether there is a violation and how to proceed in addressing the violation. The Primary Grantee's decision shall in all cases be the final and controlling decision binding on both Grantees. In the event that no response is received from the Secondary Grantee within thirty (30) days, the Primary Grantee shall notify Grantor and proceed as provided in Paragraph V.B.2.
5. Exception for Emergency Circumstances. If either Grantee, in its sole discretion, reasonably determines that immediate action is required to prevent or mitigate significant damage to the Premises and/or the Conservation Values of the Premises, said Grantee may pursue any of its remedies under subsection 2 with concurrent oral and written notice to the other Grantee and to Grantor and without waiting for the concurrence of the other Grantee or the Cure Period to expire. Grantor will be responsible for all expenses related to a boundary dispute.

C. Non-Waiver

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

D. Disclaimer of Liability

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

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

VI. CONTINUATION IN AGRICULTURE

A. Active Use

Grantor must make all appropriate and commercially reasonable efforts to keep the Premises actively used for Agricultural Activities as set forth in Paragraph III.B.13. Active Use of the Premises shall be defined as 70% or more of the fields identified in the Baseline Report being actively used for agriculture at any one time in accordance with a current and approved Farm Conservation Plan ("Active Use").

B. Default of Active Use

Default shall be defined as any time Grantor (including any successor or assign of the Grantor) has reduced or discontinued Active Use of the Premises to less than 70% as defined above for a consecutive period of twelve (12) months.

C. Procedure to Remedy

Grantee shall provide written notice to Grantor of Default of Active Use as defined above ("Notice of Default"). Upon receipt of Notice of Default, Grantor then has a consecutive period of twelve (12) months to remedy Default and must provide a written plan outlining steps to remedy Default to Grantee within sixty (60) days of receipt of Notice of Default. If Grantor has not remedied Default within twelve (12) months of Grantees' Notice of Default, Grantor shall be deemed in violation of this CR and subject the provisions of Paragraph V. above.

VII. PUBLIC ACCESS

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

VIII. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official (“Secretary”), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor’s and Grantee’s Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VIII.C., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee’s Receipt of Property Right

Grantor and Grantees agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantees, with a fair market value equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted Premises, which proportionate value was determined at the time of the conveyance to be 71% of the unrestricted value of the Premises. Such proportionate value of the Grantees’ property right shall remain constant. Grantees further stipulate that their respective interests in the Conservation Restriction value are 40% for the Primary Grantee and 60% for the Secondary Grantee, but any proceeds contemplated herein due to Grantees shall be distributed as follows: the first \$350,000 shall be distributed to the Primary Grantee, and any remaining proceeds shall be distributed in accordance with their total respective percentage interests stipulated above between the two Grantees.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VIII.B. and Paragraph VIII.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

IX. DURATION and ASSIGNABILITY

A. Running of the Burden

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

B. Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

X. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record, in the applicable registry of deeds, or registered in the applicable land court registry district, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

XI. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

XII. NON MERGER

At the time of this grant, the Westport Land Conservation Trust, Inc., as the Secondary Grantee of this Conservation Restriction, is also a fee owner of the Premises. The parties agree upon a process of decision making described in Paragraph III.F., Paragraph IV and Paragraph V.B. that ensures that this Conservation Restriction will be enforceable at all times by at least one non-fee owner of the Premises. The parties intend that the Westport Land Conservation Trust, Inc.'s role as Secondary Grantee shall not constitute or result in merger of the Conservation Restriction into the fee.

Further, the parties intend that any future acquisition of the Premises, including any acquisition resulting from the ROFR described in Paragraph IV, shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantees agree that they will not take title, including through exercising the ROFR, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XIII. AMENDMENT

A. Limitations on Amendment

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;

3. affect the qualification of this Conservation Restriction as a “qualified conservation contribution” or “interest in land” under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a “qualified organization” or “eligible donee” under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VIII (Termination/Release/Extinguishment); or
7. cause the provisions of this Paragraph XIII to be less restrictive; or
8. cause the provisions described in Paragraph IX.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantees and Grantor, approved by the Town of Westport and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XIV. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XV. NOTICES

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

To GRANTOR:

Westport Land Conservation Trust, Inc.
573 Adamsville Road
P.O. Box 3975
Westport, MA 02790

To PRIMARY GRANTEE:

Town of Westport
Westport Conservation Commission

856 Main Road
Westport, MA 02790

To SECONDARY GRANTEE:

Westport Land Conservation Trust, Inc.
573 Adamsville Road
P.O. Box 3975
Westport, MA 02790

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

XVI. GENERAL PROVISIONS

A. Controlling Law

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

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

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

D. Entire Agreement

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

XVII. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a

Baseline Documentation Report (“Baseline Report”) prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVIII. MISCELLANEOUS

A. Pre-existing Public Rights

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

B. Release of Homestead

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. No Surety Interest

The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

C. Executory Limitation

If either Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph IX, then that Grantee’s rights and obligations under this Conservation Restriction shall run to the other Grantee. If both Grantees shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and

applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph IX, then their rights and obligations under this Conservation Restriction shall run to the Town of Westport Conservation Commission. If the Town of Westport Conservation Commission is no longer in existence at the time the rights and obligations under this Conservation Restriction would otherwise vest in it, or if the Town of Westport Conservation Commission is not qualified or authorized to hold conservation restrictions as provided for assignments pursuant to Paragraph IX, or if it shall refuse such rights and obligations, then the rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph IX.

D. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

E. The following signature pages are included in this Grant:

Grantor

Grantee Acceptance

Approval of Town of Westport Select Board

Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

F. The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Recorded Plan of Premises

Exhibit C: Town or City Vote Authorizing the Use of CPA Funds

WITNESS my hand and seal this ____ day of _____, 2022,

_____, duly authorized
Ross Moran, Executive Director, Westport Land Conservation Trust, Inc.,

_____, duly authorized
Patricia Cerilli, Treasurer, Westport Land Conservation Trust, Inc.

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**ACCEPTANCE BY WESTPORT LAND CONSERVATION TRUST, INC. AS
SECONDARY GRANTEE**

The foregoing Conservation Restriction from Westport Land Conservation Trust, Inc. was accepted by Westport Land Conservation Trust, Inc. this _____ day of _____, 2022.

By: _____

Ross Moran

Its: Executive Director, duly authorized

By: _____

Patricia Cerilli

Its: Treasurer, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

ACCEPTANCE OF TOWN OF WESTPORT CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Town of Westport, Massachusetts, hereby certify that at a public meeting duly held on _____, 2022, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from Westport Land Conservation Trust, Inc. pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby accept the foregoing Conservation Restriction.

**TOWN OF WESTPORT CONSERVATION
COMMISSION:**

Paul Joncas, Chair

Jason Powell, Vice Chair

Kevin Carter

Phil Weinberg

Jacob McGuigan

Burton Bryan

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2022, before me, the undersigned notary

public, personally appeared _____,

_____, _____, and

_____, and proved to me through satisfactory evidence of identification which was

_____ to be the persons whose names are signed on the proceeding

or attached document, and acknowledged to me that they signed it voluntarily for its stated

purpose.

Notary Public

My Commission Expires:

APPROVAL OF TOWN OF WESTPORT SELECT BOARD

We the undersigned, being a majority of the Select Board of the Town of _____, hereby certify that at a public meeting duly held on _____, 2022, the Select Board voted to approve the foregoing Conservation Restriction from Westport Land Conservation Trust, Inc. to the Town of Westport, acting by and through its Conservation Commission, and to the Westport Land Conservation Trust, Inc., in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF WESTPORT SELECT BOARD

Shana Shufelt, Chair

Richard Brewer, Vice Chair

Steve Ouellette

Brian T. Valcourt

Ann Boxler, Clerk

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, _____, _____, _____, and _____, and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

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

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Westport Land Conservation Trust, Inc. to the Town of Westport, acting by and through its Conservation Commission, and to the Westport Land Conservation Trust, Inc., in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2022

Bethany A. Card
Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared Bethany A. Card, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Description of the Premises

The land in Westport, Bristol County, Massachusetts, containing 42.56 acres, +/-, shown as *the entirety of Lot 2* on a plan of land titled *Plan of Land A.P. 43 Lot 8, 764 Pine Hill Road, Pierce Farm Revocable Trust* dated *September 1, 2022* by *Southcoast Engineering* recorded at *[Insert recording information]*.

EXHIBIT B

Plan of Premises

For official full size plan see Bristol County South Registry of Deeds
Plan Book _____ Page _____

