



CONSERVATION RESTRICTION

KNOW ALL PERSONS BY THESE PRESENTS that the Franklin Land Trust, Inc., its successors and assigns (hereinafter collectively referred to as "Grantor" which term shall in each instance include Grantor's successors and assigns), for consideration paid of Four Hundred and Fifty Thousand One-Hundred and Fifty Dollars and 00/100 (\$450,150.00), the receipt and sufficiency of which is hereby acknowledged, hereby grants, with QUITCLAIM COVENANTS, in perpetuity, for conservation purposes as set forth in Article 97 of the Amendments to the Massachusetts Constitution, to The Commonwealth of Massachusetts acting by and through its Department of Conservation and Recreation (hereinafter referred to as "DCR" or "Department" which term shall in each instance include the Department's successor and assigns), acting pursuant to Massachusetts General Laws (hereinafter "G.L.") Chapter 132A, Section 3, a Conservation Restriction (hereinafter "CR") as defined in G.L. Chapter 184, Section 31, upon a parcel of land on both sides of Hoe Shop Road in Gill and Bernardston, Massachusetts, containing one hundred and sixty-two and five hundred and nineteen thousandths (162.519 ±) acres more or less, which parcel is more particularly described in Exhibit A attached hereto and incorporated herein (hereinafter referred to as the "Premises").

I. PURPOSE:

- A. The purpose of this CR is to retain the Premises in perpetuity for the purposes and protections set forth in Article 97 of the Amendments to the Massachusetts Constitution, to retain the Premises predominantly in its natural, scenic and open condition; to protect and promote the conservation of natural watercourses and wetlands, including Otter Pond and the Fall River, a free flowing coldwater stream identified by the United States Fish and Wildlife Service as habitat for Atlantic Salmon populations; to protect glacial features such as eskers and kettle hole ponds; to protect wildlife habitat and biological diversity; to protect Distinctive and Noteworthy Scenic Areas as identified by the Department's Scenic Landscape Inventory; to protect "BioMap Supporting Natural Landscape" and "Living Waters Critical Supporting Watershed" as designated by the Massachusetts Natural Heritage and Endangered Species Program on the majority of the Premises and the western half of the premises, respectively; to protect the silvicultural and natural resources of the Premises; to protect and enhance the value of abutting and nearby conservation areas; to allow passive recreational use for the general public; to allow for sustainable and sound management of the forest resources, and to encourage the long-term professional stewardship of these resources in a manner consistent with Best Management Practices (BMPs), applicable state and federal law, and in conformance with an approved Forest Stewardship Plan, all consistent with the provisions of this CR.

- B. The Grantor and the Department agree that all man-made structures, boundaries, and natural features existing on the Premises at the time of the execution of this CR, as well as the conservation values of the Premises protected through this CR, shall be documented in a report to be on file in the offices of the Grantor and the Department (hereinafter "Baseline Documentation Report"). This Baseline Documentation Report shall consist of documentation that the Grantor and the Department collectively agree provides an accurate representation of the condition and the conservation values of the Premises at the time this CR is recorded and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this CR.

II. PROHIBITED USES: In order to carry out the purposes set forth in Article I above, the Grantor shall refrain from and will not permit any activity which shall be inconsistent with the aforestated purposes of this CR. Except as set forth in "RESERVED RIGHTS", Article III, below, Grantor covenants for itself and its legal representatives, mortgagees, successors and assigns that the Premises will at all times be held, used and conveyed subject to and not in violation of the following prohibitions:

- A. Constructing, placing, or allowing any building, residential dwelling, tennis court, ball field, well, septic or sewerage disposal system or leach fields, artificial water impoundment, roadway, asphalt or concrete pavement, landing strip or pad, mobile home, swimming pool, billboard or other advertising display, antenna, utility pole, tower, conduit, line, telecommunication or any other tower, windmill, wind turbines, satellite dish, above or underground storage tanks, or any other temporary or permanent structure or facility on, below, or above the Premises;
- B. Mining, excavating, dredging, or removing from the Premises of soil, loam, peat, gravel, sand, rock, or other mineral resource or natural deposit, or alteration of any natural contours or features whatsoever, including the excavation of holes, the damming of Fall River, the dislocation of stone walls, cellar holes, or other features on the landscape;
- C. Archeological surveys or investigations; except under an Archeological Field Investigation Permit issued by the State Archeologist authorized pursuant to G.L. Chapter 9, Section 26A, as may be amended;
- D. Placing, filling, storing or dumping on the Premises of soil, sand, snow from off-site, rock or other mineral resource or deposit, refuse, trash, equipment, mobile home, trailer, automotive vehicle or parts, vehicle bodies or parts, rubbish, debris, junk, waste, tree stumps, slash or leaf matter, tillage, or any other substance or material;
- E. Storage, stockpiling, or use of hazardous materials, petroleum products, pesticides and herbicides, manure and fertilizers;
- F. Cutting, removing or otherwise destroying native trees, grasses, shrubs or other natural vegetation, except for vegetation management as permitted under Articles III and IV, below;

- G. Planting or broadcasting any genetically modified or replicated organisms or species, or any invasive exotic species, defined as species that are not native to Franklin County by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future, without prior written approval of DCR in accordance with Article V, below; and the purposeful introduction of species prohibited by Federal and State laws and regulations, such as species identified in "Massachusetts Prohibited Plant Species List" published by the Massachusetts Department of Agricultural Resources, Division of Regulatory Services, as amended or contained in a similar professionally acceptable publication available in the future;
- H. Commercial or industrial use of any kind, including but not limited to commercial fishing, commercial hunting, commercial trapping, commercial camping and other commercial recreational activities; except as expressly permitted by Article IV Paragraph C below;
- I. Activities detrimental to drainage, flood control, water quality, erosion control or soil conservation, or archaeological conservation;
- J. The use of motorcycles, motorized trail bikes, snowmobiles, and all other motor vehicles (except motorized wheelchairs for facilitating access for persons with disabilities), except as reasonably necessary in exercising any of the reserved rights in Articles III and IV, below, or as required by the police, firefighters, or other governmental agents in carrying out their lawful duties;
- K. Conveyance of a part or portion of the Premises alone, or division of the Premises (as compared to conveyance of the Premises in its entirety, which is allowed);
- L. The subdivision of the Premises under G.L. Chapter 41, Sections 81K *et seq.*, as may be amended, or otherwise; or the use of the Premises or any portion thereof to satisfy zoning requirements, or to calculate permissible building density, lot yield or transfer of development rights, for purposes of subdivision or development of the Premises or any other property, whether or not such property is owned by the Grantor or is adjacent to the Premises;
- M. The installation and maintenance of groundwater extraction wells and associated equipment and pipelines and similar equipment for use in extracting groundwater, collecting surface water and transporting said water for sale or use on or off the Premises; and
- N. Any other use of the Premises or activity that would materially impair the conservation interests protected by this CR or which are prohibited by federal, state or local law or regulation, or which are inconsistent with the intent that the Premises remain, in the reasonable opinion of the Department, predominantly in their natural condition or otherwise inconsistent with the Purposes of this CR.

III. RESERVED RIGHTS: Notwithstanding the provisions of Article II, above, and subject to and in accordance with applicable laws, regulations and bylaws, Grantor reserves to themselves and to their heirs, devisees, legal representatives, successors and assigns the following rights, uses and activities on the Premises, but only to the extent that such acts and uses do not materially impair the purposes of this CR:

- A. The non-commercial use of the Premises by the Grantor and Grantor's invitees for passive, low-impact recreational and educational activities such as hiking, running, nature study, bird-watching, picnicking, snowshoeing, cross-country skiing, fishing, and other like non-motorized recreational and educational activities (but reserving the right to use motorized wheelchairs necessary to facilitate access by persons with physical disabilities) that do not materially alter the landscape and are carried out in a reasonable manner that does not impair the conservation and recreation values protected by this CR; and
 - 1. Hunting may be permitted by Grantor in accordance with all federal, state, and local laws, regulations, and bylaws;
 - 2. Bicycling and horseback-riding may be permitted by Grantor on designated trails only in accordance with the Recreation Plan required by Paragraph B below.

- B. In accordance with a Recreation Plan, approved in advance by the Department according to Article V below (hereinafter "Recreation Plan"), the right to improve the property for recreational purposes to facilitate the uses permitted herein in Paragraph A above (collectively "Recreational Improvements") so long as any such Recreational Improvements do not materially impair the conservation, recreation, and scenic values of the Premises protected by this CR. Such Recreational Improvements include the following:
 - 1. Constructing, reconstructing, maintaining, repairing, and marking unpaved trails for non-motorized trail uses, including the installation of minor trail structures such as non-illuminated directional, trailhead, and educational signage, to install barriers to prevent illegal motorized use, and to install minor bridges, culverts, and stone steps, provided that such trails shall be no wider than ten (10) feet in width, and are designed, located, and constructed in accordance with DCR Trail Guidelines and Best Practices Manual as amended or contained in a similar professionally-acceptable publication approved by the Department, and provided that all such construction is conducted in a manner that will minimize negative impacts to the conservation and recreation values protected by this CR; and
 - 2. The installation of trailside benches and picnic tables; and
 - 3. Constructing, maintaining, and replacing one (1) parking and trailhead area to serve the Premises in support of the recreation activities Permitted herein, including the installation of trailhead gates and like structures, signs, and an informational kiosk. Said parking area shall be no larger than necessary to accommodate ten (10) vehicles, shall not be paved with impervious materials, and shall be located, designed, and constructed in a manner that minimizes the impact on the scenic and conservation values of the Premises.
 - 4. Grantor may post the property against trespassing, and install a gate or other barrier along Hoe Shop Road, Bascom Road, or Old Road to Scott Place at

access points into the Premises from said roads in order to prevent trespassing by motorized vehicles without a Recreation Plan, so long as prior notice is given to DCR pursuant to Article V.

5. Grantor may remove existing telephone poles and associated wires on the Property without a Recreation Plan so long as prior notice is given to DCR pursuant to Article V.
- C. The maintenance and use of existing unpaved forest roads and ways, trails, fences, bridges, gates, and stone walls on the Premises substantially in their present condition, or as reasonably necessary for the uses permitted herein, so long as such use is not significantly detrimental to water quality, soil conservation, wildlife conservation or forestry management practices or which is otherwise wasteful of the natural resources of the Premises.
- D. The cutting, pruning, removal and planting of trees, shrubs and other vegetation for ordinary improvement and maintenance of the Premises; to improve wildlife habitat; to restore native species, to prevent threat of injury or damage to persons or property; to prevent or mitigate pest infestation, blight or disease; to control or eliminate exotic or invasive species not native to Franklin County.
- E. The use and application of pesticides, herbicides, insecticides, fungicides, and other chemicals or substances in accordance with applicable law, manufacturer specifications and to the minimum extent necessary to prevent, mitigate or control pest infestation, blight or disease, or to control or eliminate exotic or invasive species. Such substances are to be used in a way that minimizes impacts to Fall River, Otter Pond, and any other streams, vernal pools, and wetlands on the Premises.
- F. Conducting archaeological investigations and activities, including without limitation surveys, excavation, and artifact retrieval, under the direction of a qualified organization or person, following submission of an archaeological field investigation plan and its approval by State Archaeologist of the Massachusetts Historical Commission, and in accordance with Massachusetts G.L. Chapter 9, Section 27C, as may be amended. Such activities shall be approved by the Department in accordance with Article V, below.
- G. The maintenance of the open fields in existence as of the date of this CR and as identified in the Baseline Documentation Report for the purposes of enhancing wildlife habitat, in accordance with an approved Forest Stewardship Plan as referenced in Article IV Paragraph A below.
- H. Use of motorized vehicles by Grantor or by permission of the Grantor as reasonably necessary (1) to conduct the permitted activities on the Premises, including but not limited to site inspection, forestry and habitat management activities, and provided such use is not detrimental to water quality, wetland integrity, fragile habitat, and soil, wildlife, and plant conservation; (2) to allow the Department to carry out enforcement of the CR as provided in Article VIII, below, and (3) for police, fire, ambulance or other emergency personnel or governmental agents to perform their official duties.
- I. Any activity or use not permitted herein is prohibited without the express written consent of the Department stating that such activity or use is not inconsistent with the

conservation purposes of this CR. Any request by Grantor for approval of such activity or use shall contain a detailed description of why such activity or use is consistent with the conservation purposes of this CR. In the event the Department disapproves the requested activity or use, the Department shall provide a detailed written explanation of why said activity or use is inconsistent with the conservation purposes of this CR. Any request for approval under this paragraph shall be made in accordance with Article V, below.

IV. ADDITIONAL RESERVED RIGHTS: In addition to the reserved rights set forth in Article III, above, and subject to and in accordance with applicable laws, regulations and bylaws, the Grantor reserves the right to conduct forest management and timber harvesting activities on the Premises, provided that:

- A. Forest Stewardship Plan: The Grantor shall have an approved Massachusetts Forest Stewardship Plan (hereinafter "Stewardship Plan") for the Premises that is consistent with the provisions of section 5(f) of the Cooperative Forestry Assistance Act of 1978, 16 U.S.C. § 2103a(f), and that has been prepared by a Forester licensed under G.L. Chapter 132, Section 50, as may be amended, in conformance with the "Directions for the Preparation of the [G.L.] Chapter 61 Forest Management Plans and Forest Stewardship Plans" and such statutes, regulations and directions in effect at the time of the approval of said Stewardship Plan. The Stewardship Plan shall reference this CR and shall set management goals that protect the conservation values of the Premises, including, without limitation, water quality, water features including but not limited to streams, seeps, and vernal pools and other wetlands, scenic views, wildlife habitat, endangered or threatened species, and forest health. The Stewardship Plan shall describe in detail plans for carrying out forest management activities permitted under this CR, including but not limited to tree harvesting activities; use or construction of woods roads, and recreational activities on the Premises. A copy of this CR shall accompany the Grantor's application and proposed Stewardship Plan to the State Forester for approval, together with a statement in writing from the Grantor that the proposed Stewardship Plan conforms to the purposes of this CR.

The Stewardship Plan shall be effective for a ten (10) year period and shall be resubmitted once every ten (10) years, together with a copy of this CR, to the State Forester for approval. Each subsequent submittal or any amendment to the Stewardship Plan shall be prepared and submitted by the Grantor for approval by the State Forester as provided above. By mutual agreement of the Grantor and the Department, and subject to the provisions of this Article IV, the (ten) 10 year Stewardship Plan may be revised at any time by written amendment. If the amendment is approved by the State Forester, the Grantor shall submit a copy of the amended Plan to the Department for its records and use in monitoring compliance with this Article IV.

- B. Forest Cutting Plan: If any proposed timber or tree harvesting activity exceeds ten thousand board feet ("MBF") or ten (10) cords of wood during any consecutive twelve (12) month period, notwithstanding the thresholds described in G.L. Chapter 132, Section 44, as may be amended, Grantor shall submit a Forest Cutting Plan (hereinafter "Cutting Plan") prepared by a Forester licensed in accordance with said G.L. Chapter 132, Section 50, for the written approval of the State Forester. The Cutting Plan shall be prepared in compliance with the Massachusetts Forest Cutting

Practices Act, G.L. Chapter 132, Sections 40 - 46, inclusive, as may be amended; shall be in conformance with related DCR policies, and shall be consistent with the approved Stewardship Plan and the purposes of this CR. The Cutting Plan shall be submitted to the State Forester for approval together with a copy of this CR, a copy of the approved Stewardship Plan, and a statement in writing from the Department that the Cutting Plan conforms to the purposes of this CR. The restrictions on placement or storage of slash or stumps on the Premises as provided in Article II, Paragraph D, above, shall not limit the authority of the State Forester to approve a Cutting Plan or other forestry activity conducted by the Grantor that results in proper handling of slash, brush and residual forest products pursuant to G.L. Chapter 48, Sections 16, *et seq.*, as may be amended, and the recommended guidelines in the Massachusetts Forestry Best Management Practices Manual (Kittredge and Parker, 1996) and subsequent versions as may be approved by the Department (hereinafter "Forestry BMPs").

- C. Commercial Harvesting: Commercial timber or tree harvesting is permitted, provided it is conducted in compliance with (a) the purposes of this CR, (b) the approved Stewardship Plan, (c) the approved Cutting Plan, if required, and (d) prudent and sound forest management practices, using all required or applicable Forestry BMPs.
- D. Woods Roads: Grantor may construct, maintain, use, improve, repair and discontinue unpaved woods roads on the Premises for forestry purposes with a travel surface not to exceed twelve (12) feet in width, so long as such roads are located, designed and constructed in a manner that will minimize negative impacts on the conservation and recreational purposes of this CR, and are included in the approved Stewardship Plan and any Cutting Plan required, and are consistent with Forestry BMPs. The Stewardship Plan must demonstrate (1) that the road is necessary to provide reasonable forest management access to the Premises, (2) that, to construct a new road, the system of existing woods roads is not reasonably adequate, and (3) that the construction of a new road or improvement to an existing road does not materially impair the purposes of this CR. Notice to and approval of the Department shall be deemed granted for the construction of new woods roads if such roads are contained in the approved Forest Stewardship Plan, and any approved Cutting Plan required. Upon the discontinuance of woods roads, Grantor shall restore the roadbed, and any bridges, culverts and disturbed abutting areas shall be returned to a natural state with even contour and in such a manner so as not to cause erosion, in order that re-forestation and vegetation may naturally occur. Such reclamation of wood roads shall be in accordance with Forestry BMPs and the Stewardship Plan.
- E. Harvesting for Grantor Use: The cutting of trees, not to exceed ten (10) MBF or ten (10) cords of wood in any consecutive twelve (12) month period, to provide forest products for use of the Grantor is permitted, provided that the cutting is not inconsistent with the approved Forest Stewardship Plan.
- F. No provisions in or revisions to the Forest Stewardship Plan or to the Forest Cutting Plan shall change the meaning or terms of this CR, and in the case of any conflict between this CR and the Plan, the CR shall govern.

- V. **NOTICE BY GRANTOR:** Unless otherwise provided herein or by law, the Grantor shall notify the Department in writing, sent certified mail, return receipt requested, sixty (60) days before allowing or undertaking any uses or activities on the Premises which require the approval of the Department. The Grantor shall also in the same manner notify the Department before allowing or undertaking any uses or activities which may significantly impair the conservation interests found within the Premises or are contrary to the purposes of this CR. The Grantor shall submit to the Department such plans and other information as the Department shall reasonably require to determine whether the use or activity is consistent with the purposes of this CR. All communications in this regard should be mailed to:

Commissioner
Massachusetts Department of Conservation and Recreation
251 Causeway Street
Boston, MA 02114-2104

With a copy to:

Office of the General Counsel
Massachusetts Department of Conservation and Recreation
251 Causeway Street
Boston, MA 02114-2104

With respect to those activities or uses which require the Department's approval, the Department shall grant or withhold its approval in writing within sixty (60) days of receipt of the Grantor's written request therefor. The Department's approval may be withheld only upon a reasonable determination by the Department that the action as proposed would be inconsistent with the purposes of this CR, would materially impair the conservation interests to be protected by this CR, or would violate any statute, ordinance, bylaw, rule or regulation. The Department's failure to respond within sixty (60) days of receipt of written request from the Grantor shall be deemed to constitute approval of the matters described in the notice, so long as the notice references the provisions of this Article relating to constructive approval after the passage of time. In the event the activity proposed is necessary to address an emergency situation, either to avert environmental degradation, ecological damage or risk to public health and safety, the Department shall respond forthwith and with all deliberate speed.

- VI. **REMEDIES; WAIVER:** The rights hereby granted shall include the right to enforce this CR by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Department may have no adequate remedy at law), and shall be in addition to and not in limitation of any other rights and remedies available to the Department.

This CR shall be enforced by the Department in its sole discretion. Nothing herein shall impose upon the Department any affirmative obligation or liability relating to the condition of the Premises. Failure by the Department to enforce any provision or condition set forth herein, or to exercise any rights hereby conveyed, shall not constitute a release or waiver of any such right or condition.

- VII. **RIGHTS OF ACCESS:** The CR hereby conveyed includes the grant of the right to the Department, its successors and assigns, to enter upon the Premises and to permit the public

to enter upon and use the Premises and existing and future ways and marked trails for the purposes set forth in Article III, Paragraph A, above, subject, however, to conditions specified in this CR, all in accordance with the rules and regulations of the Department and any restrictions imposed by the Grantor or the Department to preserve and promote wildlife habitat and the unique natural resource values of the Premises. The right of public access hereby conveyed does not include the right of overnight camping; the right to operate all-terrain motorized vehicles, including but not limited to motorcycles and off-road vehicles; the right to use amplified music or public address systems; the right to create or maintain open fires; the right to consume alcoholic beverages; the right to collect firewood, native plants or animals; the right to use animals, birds or other living creatures for target shooting; the right to damage or degrade real or personal property; the right to impair the quiet and peaceful enjoyment of the Grantor; the right to engage in any unlawful, destructive or reckless behavior of any kind, including without limitation hunting in an unsportsmanlike manner (as defined by the Massachusetts Department of Fish and Game), or the right to conduct any commercial use, including but not limited to guided hunting trips. The Grantor reserves the right to restrict access to areas of the Premises during timber harvesting or other permitted management activities that may pose a safety hazard. The Department and the Grantor may agree in writing to restrict access for other reasons, but only to the extent and for the duration necessary to preserve important scenic, ecological, and other conservation values of the Premises, to permit necessary maintenance, or to assure safety.

- VIII. INSPECTION; ENFORCEMENT:** The CR hereby conveyed includes the grant of the right to the Department and its agents to enter upon the Premises in a reasonable manner and at reasonable times, with or without prior notice, for the purpose of inspecting the Premises to determine compliance with the terms of this CR. In the event of any violation, the Department must notify Grantor thereof and request Grantor to remedy such violation. If the violation is not remedied within a reasonable time, the Department may enter upon the Premises, with or without Order of Court, in order to remedy or abate such violation, in which event, the Grantor, its successors and assigns, covenants and agrees to reimburse the Department for all reasonable costs and expenses incurred by the Department in remedying or abating any violation of this CR by Grantor or Grantor's invitees. Grantor shall be required to reimburse the Department solely for violations that occur during their respective period of ownership. The provisions of this Article VIII shall not preclude any other remedies available at law or in equity.
- IX. COSTS AND TAXES; LIABILITY:** The Grantor agrees to pay and discharge when and if due any and all real property taxes and other assessments levied on the Premises by competent authority.
- X. ACTS BEYOND GRANTOR'S CONTROL:** Nothing contained in this Conservation Restriction shall be construed to entitle DCR to bring any action against Grantor for any injury to or change in the Premises resulting from causes beyond Grantor's control, including, but not limited to fire, flood, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. Notwithstanding this provision, Grantor and DCR agree that it is desirable that they shall cooperate in efforts to develop and implement a reasonable and feasible plan to mitigate any such damages, including remediation and restoration of the Premises.

- XI. BINDING EFFECT; RELEASE; RECORDATION:** The burden of this CR shall run with the Premises in perpetuity or such time as is provided by law, and shall be enforceable against the Grantor and the Grantor's successors and assigns holding any interest in the Premises. This Restriction may only be released, in whole or in part, by the Department pursuant to the procedures established by G.L. Chapter 184, §32, as may be amended, and in accordance with Article 97 of the Amendments to the Massachusetts Constitution. The Department may, with the Grantor's prior written approval, which approval shall not be unreasonably delayed or withheld, record or file any notices or instruments appropriate to assuring the perpetual enforceability of this CR. The Grantor shall execute any such instruments if reasonably necessary to assure perpetual enforceability.
- XII. SUBSEQUENT TRANSFERS:** The Grantor agrees to incorporate by reference the terms of this CR in any deed or other legal instrument by which it divests itself of any interest in the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Department of such transfer at least thirty (30) days prior to the date of such transfer. The Grantor shall also provide the State Forester or his designated representative a copy of all such notices.
- XIII. EXTINGUISHMENT; EMINENT DOMAIN:** The Grantor and the Department agree that the grant of this CR gives rise to a property right that vests immediately in the Department and which has a fair market value that is equal to the value by which the CR reduces, at the time of the grant, the value of the property as a whole as determined by a professional real estate appraisal obtained by the Department. Such proportionate value of DCR's property interest is eighty-four (84%) at the time of the grant, which proportionate value shall remain constant.

Should this CR be extinguished over all or any portion of the Premises by judicial decree or by act of public authority, the Department shall be entitled to a portion of the proceeds equal to the proportionate value of the CR designated above, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds. If the conservation interests protected by this CR are unaffected by the taking, and the only interest taken by public authority is the Grantor's interest, and recovered proceeds are awarded on the basis of the value of the Premises as restricted by this CR, then the proceeds from such taking shall be payable in their entirety to the Grantor.

Whenever all or any part of the Premises or any interest therein is taken by a public authority (other than The Commonwealth) under power of eminent domain, or if all or any part of this CR is extinguished by act of public authority (other than The Commonwealth), then Grantor and the Department shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. If the public authority is The Commonwealth, the Grantor and the Department shall pursue their remedies separately.

- XIV. AMENDMENT:** If circumstances arise under which amendment to or modification of this CR would be appropriate, the Grantor and the Department may by mutual written agreement jointly amend this CR, provided that such amendment does not adversely affect any of the significant conservation values of the Premises and does not violate Article 97 of the Amendments to the Massachusetts Constitution. Any such amendment shall be recorded with the Franklin Registry of Deeds.

XV. SEVERABILITY: If any section or provision of this CR shall be held to be unenforceable by any court of competent jurisdiction, the CR shall be construed as though such section had not been included in it. If any section or provision of the CR shall be susceptible of two constructions, one of which would render such section or provision invalid, then such section or provision shall be given the construction that would render it valid. If any section or provision of this instrument is ambiguous, it shall be interpreted in accordance with the policies and provisions expressed in G.L. Chapter 184, Sections 31 and 32, and G.L. Chapter 132A.

XVI. MISCELLANEOUS:

- A. This instrument does not purport to transfer a fee interest.
- B. This CR is conveyed subject to and with the benefit of matters of record at the Franklin Registry of Deeds.

Executed under seal this 19th day of June, 2009.

Franklin Land Trust, by

W.K.H.
its Executive Director

COMMONWEALTH OF MASSACHUSETTS

County, ss:

On this 19th day of June, 2009, before me, the undersigned notary public, personally appeared Richard K. Hubbard, who proved to me through satisfactory evidence of identification, which was MA Drivers License to be the person/persons whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Brandon W. Vickey

Brandon W. Vickey, Notary Public

My Commission Expires: 9/24/2015

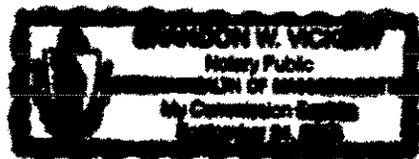
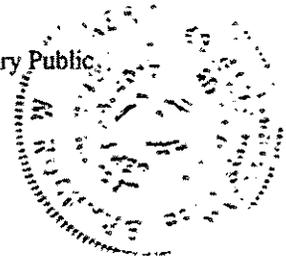


Exhibit A

The premises are bounded and described in a plan titled "Plan of Land in Gill & Bernardston, Mass. (Franklin County) Surveyed for Sandri Trust" dated April 29, 2009, Roberge Associates Land Surveying, 21 Mohawk Trail #283, Greenfield, Mass. and are shown as "East Tract 112.628 ± Acres" and "West Tract 61 ± Acres," recorded in said Registry of Deeds in Plan Book 128, Page 13; EXCLUDING therefrom, Lots 1, 2, 3 and 4 as shown on a plan titled "Plan of 4 Lots in Gill (Franklin Co.) Mass surveyed for Franklin Land Trust" dated May 12 2009, Roberge Associates Land Surveying, 21 Mohawk Trail #283, Greenfield, Mass., recorded in said Registry of Deeds in Plan Book 128, Page 21 and Parcel 1, AND 0.500 Acres shown on a plan of land titled "Plan of Barn Lot in Gill (Franklin Co.) MASS. surveyed for Franklin Land Trust" dated May 29, 2009, Roberge Associates Land Surveying, 21 Mohawk Trail #283, Greenfield, Mass. and recorded in said Registry of Deeds in Plan Book 128, Page 35.