

CONSERVATION EASEMENT AND RESTRICTION

The purpose of a Conservation Easement is to protect in perpetuity significant natural features and to minimize the environmental impact of activities associated with land development within the Town of Old Lyme.

It is the responsibility of the property owner to be fully aware of all of the conditions contained in the Conservation Easement Agreement as expressed below. The Town of Old Lyme will vigorously enforce the conditions established herein.

THIS INDENTURE made this day of , 2009, by and between **[Grantor]** of [address] (hereinafter called "Grantor"), and the **TOWN OF OLD LYME**, a municipal corporation having its territorial limits within the County of New London and State of Connecticut (hereinafter called "Grantee");

WITNESSETH:

WHEREAS, the Grantor is the owner of real property, hereinafter described, situated in the Town of Old Lyme, County of New London and State of Connecticut, which Grantee, acting through its Planning Commission, has determined would be in the public interest to retain, maintain and conserve in its natural state; and

WHEREAS, the Grantee, acting through its Planning Commission, has determined that the maintenance and conservation of the said property of the Grantor can best be accomplished by the securing by Grantee of a Conservation Easement and Restriction over, across, and upon the said property of Grantor; and

WHEREAS, the Grantor is willing, in consideration of One Dollar (\$1.00), receipt of which is hereby acknowledged, and of possible reduction by Grantee of real property taxes on said property to grant to said Grantee the easement and covenants as hereinafter expressed concerning said property, thereby providing for its maintenance and conservation as open space;

NOW, THEREFORE, said Grantor, on behalf of himself, his heirs, successors and assigns, does hereby give, grant, bargain, sell and confirm unto said Grantee, its successors and assigns forever, the right, privilege and authority to perpetually preserve, protect, limit, conserve and maintain the land hereinafter described in its natural, undeveloped state. All covenants contained herein are deemed to run with the land.

[Legal Description]

I. PROHIBITIONS

GRANTOR COVENANTS AND AGREES TO PROHIBIT AND REFRAIN FROM THE FOLLOWING ACTIVITIES UNDER, OVER, OR UPON THE CONSERVATION EASEMENT AREA:

A. **Structures and Improvements.** The construction or placement of any buildings, structures, storage sheds, roads, drainage facilities, septic systems, parking areas, or other improvements of any kind or nature (including, but not limited to mobile homes), permanent or temporary, on, over, or under the Conservation Easement Area, shall be prohibited. Existing roads, parking areas, structures and drainage facilities on the property may be maintained in their current location.

B. **Excavation and Removal of Materials.** The excavating, filling or removal of material from the property shall be prohibited. Mineral exploitation, and extractions by any method, surface or subsurface, is prohibited. The removal of topsoil, sand or other materials is prohibited. The topography of the property shall not be changed or altered in any manner.

C. **Subdivision.** The property shall not be divided, partitioned or otherwise converted into separate parcels.

D. **Dumping.** The dumping, placing, burying or accumulation of soil or other substance or material as landfill, or the dumping, placing, burying of waste, sewage, vehicles, appliances, construction material, trash, garbage, sawdust, ashes, chemical waste or any other unsightly or offensive materials on the Conservation Easement Area shall be prohibited

E. **Signs and Lighting.** The display of signs, billboards, or advertisements on that portion of the Property covered by the Conservation Easement Area shall be prohibited. The use or placement of lighting on that portion of the property covered by the Conservation Easement and Restriction shall be prohibited.

F. **Timber, Trees and Vegetation.** The cutting, removal or destruction of trees, shrubs, or other vegetation, the destruction of wildlife or its habitat, the application of pesticides or herbicides, or any other activity or use which is or has the potential for being detrimental to drainage, flood control, water quality, erosion control, soil conservation, wildlife or the land and water areas in their natural condition shall be prohibited in the Conservation Easement Area.

G. **Soil and Water.** Any use or activity that causes or is likely to cause soil degradation or erosion or pollution of any surface or subsurface waters shall be prohibited in the Conservation Easement Area.

H. **Utilities.** The creation or placement of utility transmission lines, utility poles and wires shall be prohibited in the Conservation Easement Area unless on the route of the existing transmission lines pursuant to a recorded easement. Utilities may be used solely to service the existing structures. Where feasible, all new utility lines shall be buried underground.

I. **Vehicles.** The use of motor vehicles, machinery, ATVs, snowmobiles, bicycles or any other type of motorized or non-motorized vehicles, machinery or other recreational equipment is also prohibited within the Conservation Easement Area. Necessary firefighting equipment and other emergency service vehicles or activities are permitted to the extent necessary.

K. **Activities in Proximity to Conservation Easement Area.** The conduct of any of the

foregoing activities in such proximity to the Conservation Easement Area that their result could be detrimental to drainage, flood control, water quality, erosion control, soil conservation or wildlife in the Conservation Easement Area.

L. **Removal of Stakes and Markers.** The removal or disturbance of the Conservation Easement Area temporary stakes prior to permanent marking, permanent iron pins or boundary markers, or any other field identifications of the Conservation Easement Area boundaries is prohibited.

II. IDENTIFICATION AND INSPECTION OF CONSERVATION EASEMENTS

GRANTOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

A. **Temporary Markers.** Before commencement of site work on any property of the Grantor which contains or is adjacent to a Conservation Easement Area. Conservation Easement boundaries are to be marked with oak stakes labeled "Conservation Easement" with waterproof ink and tied with red flags. These stakes are to be located at each change of boundary direction and at every 100-foot interval on straight-aways. Stakes are to remain in place until the Grantor installs easement boundary markers, as specified below.

B. **Permanent Markers.** All Conservation Easement Area corners shall be permanently marked with iron pins, which protrude from ground surface not more than one inch and such pins shall not contain sharp edges. In addition, the Grantor hereby agrees to install and maintain markers identifying the boundaries of the Conservation Easement Area, such markers to be specified by the Old Lyme Planning Commission or its designee.

C. **Entry and Inspection.** Grantee, or its designees, shall have the right to enter upon the property at reasonable times during daylight hours, upon prior notice to Grantor and in a manner that will not interfere with Grantor's quiet use and enjoyment of the Property, for the purpose of inspection to determine whether this Conservation Easement and Restriction and its purposes and provisions are being complied with. Any report of violation shall be sent in writing to the Grantor.

III. FINDING OF VIOLATIONS

A. If it is determined by the Old Lyme Planning Commission, or its designee, that a violation of the Conservation Easement and Restriction exists, the Grantor shall be ordered to cease and desist from and prevent any activity which, in the opinion of the Planning Commission, or its designee, is in violation of this Conservation Easement and Restriction.

B. Within sixty (60) days of such order and after appropriate notice, the Planning Commission shall hold a hearing for the purpose of determining if the cease and desist order shall continue.

C. If the Grantor is found to have violated the terms of this Conservation Easement and Restriction, the Grantor agrees, among other things, to restore the Conservation Easement Area(s) as closely as possible to its (their) natural state. Such restoration shall include but need not be limited to:

- (a) replanting with trees, shrubs or other appropriate vegetation acceptable to the Planning Commission, or its designee;
- (b) removal of any debris, trash, garbage, ashes, waste, rubbish, silt, unsightly or offensive material;
- (c) removal of any unauthorized buildings, signs, billboards or other advertising, or other structures on or above-ground;
- (d) emplacement and maintenance of erosion controls;
- (e) replacement by a land surveyor of any Conservation Easement Area markers that have been removed or disturbed.

D. Restoration shall be at the expense of the Grantor and in accordance with plans developed by a qualified professional such as a landscape architect, land surveyor, or a professional engineer, and approved by the Planning Commission, or its designee.

E. If the Grantor, or any other person acting with the consent of the Grantor, is found to have violated the Conservation Easement and Restriction, the Planning Commission, or its designee, may pursue, without election, any available remedy at law or equity. Grantor acknowledges and agrees that Grantee's remedies at law for any violations of this easement are inadequate.

F. In the event that Grantee shall bring legal action to enforce any provision of this Conservation Easement and Restriction and if any court of competent jurisdiction shall find that the Grantor violated any provision of this Conservation Easement and Restriction, Grantor agrees to pay all the costs, including reasonable attorney's fees for said legal action.

G. Grantor, or his heirs and assigns, shall not be liable for any changes to the property resulting from causes beyond the Grantor or his heirs and assigns' control, including, without limitation, fire, flood, storm and earth movement, or from any prudent action taken by the Grantor, or his heirs and assigns, under emergency conditions, to prevent, abate, or mitigate significant injury to persons or to the Property resulting from such causes.

H. The Grantor herein reserves to himself the right to make use of the above-described premises for any and all purposes which are in keeping with the stated intent of this Conservation Easement and Restriction and which shall in no way endanger the maintenance and conservation of the above-described premises as open space in its natural state.

IV PUBLIC ACCESS

Nothing contained in this Conservation Easement and Restriction shall give or grant to the public a right to enter upon or use the Conservation Easement Area or any portion thereof where no such right existed in the public immediately prior to the execution of this Easement.

V SUBSEQUENT TRANSFERS

A. The Grantor further covenants and agrees to incorporate the terms of this Easement in any deed or legal instrument by which any interest in all or a portion of the Conservation Easement Area is divested, including, without limitation a leasehold interest. Failure of said Grantor to provide such notice shall not impair the validity of this Easement or limit its enforceability in any way.

B. The Grantor further covenants and agrees to give written notice by certified mail to the Town Clerk of the transfer of any interest in the Conservation Easement Area at least five (5) days prior to the date of such transfer. Failure of said Grantor to provide such notice shall not impair the validity of this Easement or limit its enforceability in any way. A copy of this notice shall be also sent to the Chairman of the Old Lyme Planning Commission. [

VI. Other Provisions

A. The Grantor agrees to pay any real estate taxes or other assessments levied by competent authorities on the Conservation Easement Area.

B. If any provision of this Conservation Easement or Restriction or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of the Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

C. The covenants agreed to and the terms, conditions, restrictions and purposes imposed with this grant shall not only be permanent and binding upon the Grantor, but also his lessees, agents, personal representatives, successors and assigns, and all other successors to him in interest and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

D. Grantee's exercise of one remedy or relief under this section shall not have the effect of waiving or limiting any other remedy or relief, and the failure to exercise or delay in exercising any remedy shall not have the effect of waiving or limiting the use of any other remedy or relief at any other time.

TO HAVE AND TO HOLD the above granted rights, privilege or authority unto said Grantee, its successors and assigns forever, to its and their own proper use and behoof.

IN WITNESS WHEREOF, the Grantor has hereunto set or caused to be set his hand and seal the day and year first aforementioned.

Signed, Sealed and Delivered
In the Presence Of:

