

BK 5182 PG 0451

This conveyance is exempt from the New Hampshire Real Estate Transfer Tax pursuant to N.H. RSA 78-B:2 I, II

**WARRANTY CONSERVATION EASEMENT DEED**  
With Grant of Limited Access

**W. DOUGLAS SCAMMAN, JR., TRUSTEE OF THE W. DOUGLAS SCAMMAN, JR.  
REVOCABLE TRUST**, of 69 Portsmouth Avenue, Town of Stratham, New Hampshire,  
(hereinafter referred to as the "Grantors" which word shall, unless the context clearly indicates otherwise, include the Grantors' executors, administrators, legal representatives, devisees, heirs, successors and assigns), for Consideration of \$2,380,000.00 (Two Million Three Hundred and Eighty Thousand Dollars) grants with warranty covenants a Conservation Easement in perpetuity to the **SOUTHEAST LAND TRUST OF NEW HAMPSHIRE**, a not-for-profit corporation duly organized and existing under the laws of the State of New Hampshire for the public benefit consistent with New Hampshire R.S.A 477:46 and I.R.C. Section 501(c)(3) with its principal place of business at 12 Center Street, Town of Exeter, New Hampshire (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns),

and an Executory Interest therein to the **TOWN OF STRATHAM**, a New Hampshire municipal corporation duly organized, with a principal place of business at 10 Bunker Hill Avenue, Town of Stratham, County of Rockingham, State of New Hampshire, 03885, a “qualified organization” within the meaning of Section 170 (b)(1) of the Internal Revenue Service Code of 1986, as amended, and a governmental body eligible to hold a “conservation easement” within the meaning of N.H. RSA 477:45-47 (hereinafter referred to as the “Executory Interest Holder”), as further described in Section 10 below,

and with a Right of Enforcement to the **UNITED STATES OF AMERICA** (hereinafter referred to as the "United States", which term shall include its assigns), acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (hereinafter referred to as the "NRCS", which term shall include its assigns), on behalf of the Commodity Credit Corporation for the rights described herein in Section 10 below, the **Conservation Easement** hereinafter described with respect to that area of land (herein referred to as the "Property") with any and all buildings, structures, and improvements thereon, consisting of approximately 138.77 acres situated in the Town of Stratham, Rockingham County, State of New Hampshire, identified as "Conservation Easement Area B" on a plan titled "SUBDIVISION PLAN AND LOT LINE REVISION PLAN OF LAND OF W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST, (TAX MAP 1, LOT 13 & 13-11), SHEILA A. SCAMMAN REVOCABLE TRUST (TAX MAP 1, LOT 13-5), ROLAND AND MONICA SCHELLER (TAX MAP 8, LOT 30), ROUTE 108 &

RIVER ROAD, STRATHAM, NEW HAMPSHIRE", dated September 22, 2009, prepared by Doucet Survey, Inc., and recorded in the Rockingham County Registry of Deeds as Plan D-36673, (hereinafter referred to as "Easement Plan") and more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

The Grantee, Grantors, Executory Interest Holder, and United States are hereinafter referred to collectively as the "Parties."

The Conservation Easement granted hereunder is conveyed subject to the Rights of Enforcement of the United States of America. These rights are more fully described in Section 9.

This Conservation Easement is being purchased with funds provided, in part, by the Farm and Ranch Lands Protection Program (hereinafter referred to as "FRPP"), pursuant to 16 U.S.C. 3838h and 3838i. Specifically, the FRPP is providing \$950,000.00 (Nine Hundred and Fifty Thousand Dollars) toward the purchase of this Conservation Easement. Under FRPP, the Secretary of the United States Department of Agriculture, through the NRCS acting on behalf of the Commodity Credit Corporation is authorized to provide funding for the purchase of conservation easements for the purpose of protecting agricultural use of the land by limiting non-agricultural uses of the land.

**1. PURPOSES**

The Conservation Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation Purposes (herein referred to as the "Purposes") for the public benefit:

- A. To protect the agricultural soils, including 7 (seven) acres of prime farmland soils, 20 (twenty) acres of agricultural soils of statewide importance and 70 (seventy) acres of agricultural soils of local importance (said soils defined by U.S. Department of Agriculture Natural Resources Conservation Service), the agricultural viability and the agricultural productivity (hereinafter referred to as the "Conservation Values") of the Property in perpetuity. No activity which shall significantly impair the actual or potential use of the Property for agricultural production shall be permitted. To the extent that the preservation and protection of additional conservation attributes of the Property listed in 1.B., 1.C., 1.D. 1.E. and 1.F. are consistent with the primary purpose of protecting the agricultural soils, agricultural viability, and agricultural productivity of the Property in perpetuity, it is also the purpose of this Conservation Easement to protect those additional conservation attributes of the Property, and to such extent, no activity that shall significantly impair those additional conservation attributes of the Property shall be permitted.
- B. The conservation and protection of open spaces, particularly the conservation of the productive farm and forest land of which the Property consists, which includes highly productive forest soils as well as important agricultural soils, and of the wetland and upland wildlife habitat thereon, including ~90 acres of supporting landscape identified by the New Hampshire Wildlife Action Plan, which includes ~51 acres of Appalachian Oak Pine Forest, and the long-term protection of the Property's capacity to produce economically valuable agricultural and forestry products; and

- C. The enjoyment of the general public of the scenic rural views, including the more than 200 feet of frontage on New Hampshire Route 108 (Portsmouth Avenue) and more than 700 feet of frontage on River Road.
- D. The protection of the Property for outdoor recreation by and/or the education of the general public thereon, as set forth in Section 2.K below.
- E. The preservation and protection of the surface water on the Property and ground water resources on and under the Property
- F. The enhancement and enlargement of the area of protected land located along and near the Squamscott River, including the adjacent conservation easement to be conveyed simultaneously by the Grantor on 67-acres of land, the adjacent 29-acre Zarnowksi property owned by the Town of Stratham and the more than 250 acres of protected land near the Property.

The specific Conservation Values and conservation attributes of the Property are more particularly documented in a Baseline Documentation Report, as described in Section 19 below, prepared by Grantee and signed and acknowledged by the Grantors, which establishes the baseline condition of the property at the time of this grant. The Baseline Documentation Report consists of reports, maps, photographs, and other documentation that the parties agree provide an accurate representation of the Property at the time of this contract, and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this Conservation Easement. The Baseline Documentation Report shall be held by the Grantee, Executory Interest Holder, and NRCS with a copy provided to the original Grantors.

These Purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in Chapter 7 (Resource Conservation and Preservation) of the August, 1998 Master Plan of the Town of Stratham (“the Master Plan”): “Although Stratham’s natural features still exist in abundance, past development has inevitably resulted in the loss of some resources, especially open spaces and active agricultural land. Careful attention must be given to future development so that further losses to both the natural and cultural environment are minimized and that the essential qualities that make Stratham the community it is remain intact”;

and the clearly delineated open space conservation goals and/or objectives as stated in Chapter 8 (Existing and Future Land Use) of the Master Plan, which states that “[t]he protection of open space in Stratham is necessary and desirable for a variety of reasons....”; and with New Hampshire RSA Chapter 79-A which states: “It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the State’s citizens, maintaining the character of the State’s landscape, and conserving the land, water, forest, agricultural and wildlife resources.”

All of these Purposes are consistent and in accordance with the United States Internal Revenue Code, Section 170(h).

The Conservation Easement hereby granted with respect to the Property is as follows:

2. PROHIBITED USES (Subject to the reserved rights specified in Section 3 below)

The Property shall be maintained in perpetuity as open space subject to the following use limitations:

- A. Land Use Prohibition. The Property shall be maintained in perpetuity as open space without there being conducted thereon any residential, industrial or commercial activities except agriculture and forestry or other permitted uses as described in Section 3, Reserved Rights, below, and provided that the future capacity of the Property to produce forest and/or agricultural crops shall not be degraded by on-site activities. Such on-site agricultural and forestry activities shall not cause significant soil erosion or significant pollution or degradation of surface waters, subsurface waters or soil.
- B. Subdivision. The Property shall not be subdivided or conveyed in any form in separate parcels, or subdivided or conveyed in any form in separate parcels from other land of the Grantor, said other land identified on the Easement Plan as "Conservation Area 'A'" and more particularly bounded and described in Appendix "B" hereto. In connection therewith, the Grantors further covenant and agree not to undertake any action that would have the effect of subdividing or conveying any part of the Property or "Conservation Easement Area 'A'", except that the lease of any portion of the Property for any use permitted by this Conservation Easement shall not violate this provision.
- C. Structures and Improvements. Except as provided for in Section 3.C., 3.D. and 3.G. below, no structure or improvement shall be constructed, placed, or introduced onto the Property, except for structures and improvements which are: i) necessary in the accomplishment of the agricultural, forestry, conservation, or habitat management uses of the Property and which may include but not be limited to a road, dam, fence, utility line, bridge, culvert, barn, maple sugar house, farm roadside stand (as further described below), or shed; and ii) not detrimental to the Purposes of this Conservation Easement. All structures and improvements with impervious surfaces shall be located within Building Envelope A or Building Envelope B, as identified on the map titled "Building Envelope Areas of Scamman Farmland Conservation Easement" by Doucet Survey, Inc. , dated December 17, 2010, and contained within the Baseline Documentation Report (hereinafter these areas are collectively referred to as the "Building Envelope"). The Grantors shall, to the extent reasonably practicable, cluster buildings and structures within the Building Envelope to minimize the area of the Property impacted by said structures and improvements.

Further, any permanent or temporary covered structure or improvement with impervious surfaces that exceeds two hundred and fifty (250) square feet in ground area, including but not limited to a barn, maple sugar house, or greenhouse, shall be approved in writing by the Grantee at least thirty (30) days in advance of construction on, placement on, or introduction to the Building Envelope. A farm roadside stand, or similar structure for the sale of agricultural or forest products primarily grown on the Property, shall be allowable within the Building Envelope, provided that at least thirty-five (35) percent of the product

sales in dollar volume is attributable to products produced on the Property. The Grantors shall provide the Grantee with the following:

- a) a written summary of the proposed structure or improvement, its location, and intended uses;
- b) an explanation as to how the proposed structure or improvement is consistent with this Easement; and
- c) a plan to conserve and maintain the agriculturally-important soils disturbed by the construction, placement or introduction of the structure or improvement.

After consideration of the proposed structure's or improvement's consistency with the terms and Purposes of this Easement, the Grantee shall approve, approve with conditions, or disapprove the proposed structure or improvement in writing to the Grantors. Grantee shall approve or disapprove within thirty (30) days of receipt of the Grantors' written request. Such approval shall not be unreasonably withheld.

Should the Grantors desire to construct or locate a structure or improvement with an impervious surface on the Property outside of the Building Envelope, the Grantors shall submit a written request for an exception to the Building Envelope to the Grantee, Executory Interest Holder and United States. In addition to the information requested in a) through c) above, the Grantor shall provide a written explanation as to why the proposed structure or improvement must be located outside of the Building Envelope and cannot be located within the Building Envelope. Within twenty-one (21) days of the receipt of the Grantors' request, the United States shall provide written comments to the Grantee regarding the request from the Grantors. Within forty five (45) days of receipt of the Grantors' request, the Executory Interest Holder shall provide written comments to the Grantee regarding the Grantors' request. The Grantee shall review the Grantors' request and the comments of the Executory Interest Holder and United States, and approve, approve with conditions, or disapprove the request in writing to the Grantors. The Grantee shall approve or disapprove within ninety (90) days of receipt of the Grantors' written request. The Grantee shall notify the United States of the response provided to Grantors within five (5) business days of such notification to the Grantee.

All structures whether new or existing on the date of this Easement, either permanent or temporary, are subject to the impervious surface limit set forth at paragraph 2.J. below.

Even though certain structures and improvements are allowed if necessary in the accomplishment of the agricultural, forestry, conservation, or habitat management uses of the Property and subject to other conditions, as outlined above, there shall not be constructed, placed, or introduced onto the Property any of the following structures or improvements or similar structures or improvements, including but not limited to: dwelling, mobile home, cabin, residential driveways, any portion of a septic system, tennis court, swimming pool, athletic field, golf course, communications tower, dock, or aircraft landing area.

D. Soil Disturbance. Except as provided for in Section 3.C., 3.D., 3.E., and 3.G. below, no removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless

such activities:

- i. are commonly necessary in the accomplishment of the agricultural, forestry, conservation, or habitat management uses of the Property; and
- ii. do not harm state or federally recognized rare, threatened, or endangered species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and/or natural communities; and
- iii. are not detrimental to the Purposes of this Conservation Easement.

Prior to commencement of any such activities, all necessary federal, state, local, and other governmental permits and approvals shall be secured.

E. Advertising Structures. No outdoor advertising structures shall be displayed on the Property except as desirable or necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property, and provided such structures are not detrimental to the Purposes of this Conservation Easement. No sign on the Property shall exceed 12 (twelve) square feet in size, and no sign shall be artificially illuminated.

F. Mining. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except as necessary to carry out the permitted uses herein. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property, except as reserved in Section 3.F. below.

G. Waste Disposal. There shall be no dumping, storage, injection, burning or burial of man-made materials, building demolition materials, construction debris, trash, tires, vehicle bodies or parts or similar materials, or materials known to be hazardous to human health or the environment, and no storage of snow that has been moved or transported onto the Property. However, the storage and spreading of compost, manure, or other fertilizer for use on the Property; the storage of pesticides for use on the Property; the storage of feed for use on the Property; the temporary storage of trash that is generated on the Property in sound receptacles for periodic off-site disposal; the burning of brush and other vegetation grown on the Property that may be gathered in the course of permitted management activities; or leaving of slash after harvested timber on the Property are permitted, provided however that the aforesaid spreading, storage or leaving or burning of slash is done in accordance with local, state, and federal law and with the then-current scientifically based practices recommended by, as appropriate, the University of New Hampshire Cooperative Extension, NRCS, New Hampshire Department of Agriculture, Markets and Food Manual of Agricultural Best Management Practices (BMPs) in the State of New Hampshire and those recommendations (in addition to any and all label requirements) of the United States Environmental Protection Agency, or other government or private, nonprofit natural resource conservation and management agencies

then active.

- H. Rights-of-Way and Easements. No rights-of-way or easements of ingress or egress in favor of any third party shall be created or developed into, under, over, or across the Property except those of record as of the execution of this Conservation Easement Deed and those specifically permitted in the provisions of this Conservation Easement Deed. The Grantors shall not sell, lease, or grant an easement covering any portion of the Property where such sale, lease, or easement is for the purpose of construction and installation of underground or above-ground public utility systems, including, but not limited to, water, sewer, power, fuel, sewerage pumping stations, windmills, commercial satellite dishes, and cellular telephone or other communication towers. The Grantors may install utilities necessary for permitted agricultural structures on the Property.
- I. Water Rights. The title to the Property's water rights, including the quantity of water necessary for present or future agricultural production on the Property, shall not be transferred, encumbered, leased, sold or otherwise separated from title to the Property, subject to the terms set forth in Section 3.I herein below.
- J. Impervious Surface. The maximum allowable impervious surface coverage on the Property shall not exceed two percent (2.78 acres) (121,097 square feet). The total impervious surface coverage shall include all existing and future structures, driveways, roads, parking facilities and other paved or impervious surfaces, as well as any temporary structures even if the soil surface is not disturbed, including, but not limited to, plastic greenhouses and farm structures with or without a floor. Any such structure, facility or impervious cover shall be subject to this impervious surface limitation unless said structure, facility or impervious surface cover is specifically identified in the NRCS Conservation Plan as described in Section 3.A.ii below, and is an approved conservation practice, and/or is necessary to be in compliance with the Conservation Plan as determined solely by the NRCS.
- K. Posting and Public Access. The Property shall not be posted against, and the Grantors shall keep access to and use of the Property open to the public for non-motorized, non-commercial, outdoor recreational and outdoor educational purposes, such as but not limited to hiking, wildlife observation, cross-country skiing, fishing, and hunting, but not for camping, horseback riding, or snowmobiling. However, the Grantee shall be under no duty to supervise said access, use, or purpose. The Grantors reserve the right to post the Property against public access to agricultural cropland (including hayfields) during the planting and growing season, to agricultural land with perennial plantings (such as blueberry bushes) susceptible to damage from foot traffic or other allowed public uses, to lands while being grazed by livestock, and to forestland during harvesting or other forest management activities.
- L. Motorized Vehicle Use. Grantors shall neither use motor vehicles nor grant permission for motorized vehicle use on the Property, except as necessary in the accomplishment of the agricultural, forestry, habitat management, law enforcement and public safety, or conservation uses or general management of the Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils

on the Property and the Purposes of this Conservation Easement; however, notwithstanding the foregoing, the use of snowmobiles on snow is allowed on the Property at the sole discretion of the Grantors.

M. Density Requirements. The Property shall in no way be used to satisfy the density requirements of any applicable zoning ordinance or subdivision regulation with respect to the development or use of any other property.

### 3. RESERVED RIGHTS

A. Agriculture and Forestry. Grantors reserve the right to engage in agriculture and forestry.

i. Definitions. For the purposes hereof, and except as further specified below, "agriculture" and "forestry" shall include but not be limited to a nursery, an orchard, animal husbandry, floriculture, horticulture and the production of plant and animal products for domestic or commercial purposes; for example the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and the cutting and sale of products produced on the Property (such as fruits, vegetables, maple syrup and small craft items) all as not detrimental to the Purposes of this Conservation Easement. A farm roadside stand is a permissible agricultural use, provided that at least thirty-five (35) percent of the product sales in dollar volume is attributable to products produced on the Property.

a. **Commercial Forestry**: For the purposes hereof, "Commercial Forestry" shall include all forestry and forest management activities performed for commercial or industrial purposes, including barter transactions.

b. **Non-commercial Forestry**: For the purposes hereof, "Non-commercial Forestry" shall include non-commercial timber stand improvement activities, wildlife habitat improvement, and the small-scale cutting or harvesting of wood products for the domestic use of the Grantor, such as clearing trees to maintain the edge of a field, thinning the forest stand to maintain a view, or cutting firewood for domestic consumption. Non-commercial Forestry shall not include activities conducted for the contemporaneous production of sale proceeds or other consideration.

ii. Conservation Plan

As required by section 1238I of the Food Security Act of 1985, as amended, the Grantors, their heirs, successors, or assigns, shall conduct agricultural operations on highly erodible land on the Property in a manner consistent with a conservation plan prepared in consultation with NRCS and approved by the Rockingham County Conservation District, or successor agency. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect on the date of signing of this Conservation Easement Deed. However, the Grantors may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and

specifications. NRCS shall have the right to enter upon the Property with advance notice to the Grantors, in order to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantors to explore methods of compliance and give the Grantors a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantors do not comply with the conservation plan, NRCS will inform Grantee of the Grantors' noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantors to correct such noncompliance, and (c) Grantors have exhausted their appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Grant based on an Act of Congress, NRCS will work cooperatively with the Grantors to develop and implement a revised conservation plan. The provisions of this subsection c. apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantors may be or become subject.

iii. Forestry.

Any and all Commercial and Non-commercial Forestry shall be carried out in accordance with all applicable local, state, federal, and other governmental laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property. For references, see "Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire" (J.B. Cullen, 2004), and "Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire" (New Hampshire Forest Sustainability Standards Work Team, 1997), or similar successor publications.

iv. Commercial Forestry.

In addition to the requirements outlined in Section 3.A.iii above, Commercial Forestry shall be performed using silvicultural practices that enhance or maintain the value of timber while recognizing that the wildlife and other non-timber values are important components of the forest. To the extent reasonably practicable, Commercial Forestry shall meet the following goals:

a. The goals are:

- maintenance of soil productivity;
- protection of water quality, wetlands, and riparian zones;
- maintenance or improvement of the overall quality of forest products;
- conservation of scenic quality;
- protection of unique or fragile natural areas;
- protection of unique historic and cultural features; and

- conservation of native plant and animal species.

b. Any and all Commercial Forestry shall be performed in accordance with a written forest management plan (hereinafter referred to as "Forest Management Plan") consistent with this Conservation Easement, prepared by a licensed professional forester, or by some other qualified person approved in advance and in writing by the Grantee. Said Forest Management Plan shall have been prepared not more than ten years prior to the date any harvesting is expected to commence, or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said harvest.

c. Said Forest Management Plan shall include a statement of landowner objectives, and shall specifically address:

- the accomplishment of those Purposes for which this Conservation Easement is granted; and
- the goals in Section 3.A.iv.a above.

d. At least thirty (30) days prior to any commercial timber harvest, Grantors shall submit to Grantee a written certification, signed by a licensed professional forester, or by some other qualified person approved in advance and in writing by the Grantee, that the Forest Management Plan has been prepared in compliance with the terms of this Conservation Easement. Grantee may request the Grantors to submit the plan to the Grantee within ten (10) days of such request, but acknowledges that the plan's purpose is to guide forest management activities in compliance with this Conservation Easement, and that the actual activities will determine compliance therewith.

e. Timber harvesting with respect to such Commercial Forestry shall be conducted in accordance with said Forest Management Plan and be supervised by a licensed professional forester, or by another qualified person approved in advance and in writing by the Grantee.

B. Ponds. Grantors reserve the right to create ponds for purpose of agriculture, fire protection or wildlife habitat enhancement in accordance with a plan developed by the NRCS or successor agency. The total surface area, in aggregate, of all existing and created ponds shall not exceed one acre and to the extent possible will be located off of important agricultural soils. The Grantors must notify the Grantee in writing at least thirty (30) days before any exercise of this reserved right.

C. Trails: Subject to the review and approval of the Grantors, said approval not to be unreasonably withheld, the Town of Stratham shall have the right to clear, construct and maintain trails for walking, cross country skiing and other de minimis, limited low impact, transitory, non-commercial outdoor recreational activities within and across the Property and to connect the adjacent Town-owned Zarnowski property with access points on Raeder Drive and River Road, provided said trails are consistent with and not detrimental to the Conservation Values and conservation attributes of this Easement. All trails shall be located off of prime farmland soils, soils of statewide significance, and soils

of local significance to the extent possible, shall not be located on land that is being actively farmed, shall not be of an impervious surface, shall be secondary to the agricultural uses of the Property, and shall conform to best practices recommended by the Appalachian Mountain Club or similar trail-maintaining organization (For reference, see Appalachian Mountain Club, The Complete Guide to Trail Building and Maintenance, 2008 or similar successor publications). In creating, maintaining or repairing such trails, the Town of Stratham shall not remove any trees without the Grantors' prior consent. The Town of Stratham shall notify the Grantee in writing at least thirty (30) days before constructing new trails or relocating existing trails. The Town of Stratham shall bear the cost of constructing, maintaining and repairing said trails and the Grantors shall be under no obligation to maintain said trails. Once said trails are approved by the Grantors and cleared and constructed, the Town of Stratham may maintain said trails without further approval of the Grantors. This provision is an exception to 2.D. above.

D. Farm Access Road: Subject to review and approval of the Grantee, with said approval not to be unreasonably withheld, the Grantors expressly reserve the right to construct an access road from Route 108 (Portsmouth Avenue) onto the Property to support the agricultural use of the Property (hereinafter referred to as "Farm Access Road"), subject to the maximum allowable impervious surface coverage in Section 2.J above and the following conditions:

- i. To the extent practicable, said Farm Access Road shall be located off of important farmland soils.
- ii. If, at the time of the Grantors' proposed exercise of this reserved right, a road, driveway, or other access to Route 108 is established through the Access Road Area as identified on the Easement Plan and described in Appendix C, then the Grantors shall locate said Farm Access Road within the Property so as to connect it to the pre-existing access within the Access Road Area.
- iii. If, at the time of the Grantors' proposed exercise of this reserved right, a road, driveway, or other access to Route 108 has not yet been established through the Access Road Area, the Grantors may construct said Farm Access Road within the Property. However, should a road, driveway, or other access to Route 108 be subsequently established through the Access Road Area, the Grantors shall connect said Farm Access Road to the subsequently established access within the Access Road Area. Once this connection has been completed, the Grantors shall remove the portions of the old Farm Access Road within the Property that are rendered unnecessary by the new Route 108 access, and to restore the disturbed portion of the Property as close to its original condition as reasonably possible. Said relocation and restoration shall occur within one hundred eighty (180) days of the construction of the new road within the Access Road Area, and subsequent connection of said new road to the pre-existing Farm Access Road, connecting Route 108 to the Property.

At least sixty (60) days before the proposed construction of said access road, the Grantors shall provide the Grantee with written information including, but not limited to, documents, maps, plans, specifications, and designs where appropriate, sufficient to identify the proposed location and construction of the access road and its consistency with the terms and Purposes

of this Easement and the conditions of this Section 3.D. After consideration of the proposed access road's consistency with the terms and Purposes of this Easement and the conditions of this Section 3.D, the Grantee shall approve, approve with conditions, or disapprove the proposed access road in writing to the Grantors. Grantee shall approve or disapprove within thirty (30) days of receipt of the Grantors' written request. Such approval shall not be unreasonably withheld.

The intent of these provisions is to allow for only one access point from Route 108 onto the Property, whether such access point is from Route 108 onto the Property or from Route 108 using all or a portion of the Access Road Area, to gain access to the Property.

E. Rocks: The Grantors reserve the right to remove from the Property and sell any rocks that are incidentally unearthed from normal agricultural tillage activities conducted on the Property. Rocks from existing interior stone walls or exterior boundary walls on the Property are specifically excluded from this reserved right and may not be removed from the Property. This reserved right is an exception only to the limitation on the removal of rocks from the Property, as stated in Section 2.F. above.

F. Wind Turbine: The Grantors reserve the right to construct, place, operate, maintain, repair and replace one turbine or similar wind-powered, electricity-generating device on the Property (hereinafter referred to as "Wind Turbine"), provided that the location of any such Wind Turbine has been approved in advance by the Grantee, which approval may not be unreasonably withheld or delayed, and further provided that that all of the following conditions have been met:

- i. The primary purpose of said Wind Turbine shall be to generate the necessary electricity to support the agricultural use and other permitted uses of the Property.
- ii. The Wind Turbine shall be sized to meet no more than the peak demand of that period in which the Property has the greatest energy need for the eligible uses.
- iii. The Wind Turbine shall be sited and sized in such a manner to prevent – or if that is not possible – to minimize the impact to the agricultural and scenic values of the Property, and shall not be detrimental to any purpose of this Conservation Easement, and in all events shall not violate the Conservation Plan.
- iv. To the greatest extent practicable, the Wind Turbine shall be sited off of those soils which are considered to be Prime farmland or soils of Local or of Statewide Importance.
- v. At least 60 (sixty) days prior to either 1) the submission of an application for a permit for the Wind Turbine from a government agency, or 2) the construction of the proposed Wind Turbine, whichever is earlier, the Grantors shall provide the Grantee with written information including, but not limited to, documents, maps, plans, specifications, and designs where appropriate, sufficient to identify the proposed location and construction of the Wind Turbine and its consistency with the terms and Purposes of this Easement and the conditions of this Section 3.G.i-iv.

- vi. After consideration of the proposed Wind Turbine's consistency with the terms and Purposes of this Easement and the conditions of this Section 3.G.i-iv, the Grantee shall approve, approve with conditions, or disapprove the proposed structure in writing to the Grantors. Grantee shall approve or disapprove within sixty (60) days of receipt of the Grantors' written request.
- vii. The Grantee may withdraw approval and require the Grantor to (i) terminate use of the Wind Turbine and (ii) remove the same and all associated structures if the Grantors abandon use of the Wind Turbine for a period in excess of two years.
- viii. The Grantors reserve the right to connect said Wind Turbine to the local power grid and to sell incidental, excess power back to the power grid through a net-metering or similar program.
- ix. The Wind Turbine and associated structures and improvements are subject to the impervious surface limitation set forth in Section 2.F, above.

H. Ag-Tourism: The Grantors reserve the right to use a portion or portions of the Property for low-impact, farm-related, commercial outdoor recreational activities (such as a corn maze, hay rides and sleigh rides) that are secondary to the agricultural uses of the Property, subject to the prior written approval of the Grantee, such approval to be granted at the Grantee's individual sole discretion, which approval shall not be unreasonably withheld. At least thirty (30) days before the initiation of the proposed activity, the Grantors shall provide the Grantee with written information sufficient to identify and evaluate the activity and its consistency with the terms and Purposes of this Easement. The Grantee shall approve, approve with conditions, or disapprove within thirty (30) days of receipt of the Grantors' written request, but in any event, Grantee shall make best efforts in good faith to expedite its decision making. Said approval is to be exercised on a case-by-case basis and based upon, for example but not limited to, consideration of whether such activities, or the intensity of such activities, may be detrimental to the prime farmland soils, soils of statewide significance, and soils of local significance or the other Purposes of this Easement. Nothing contained herein shall prevent the Grantee, at its sole discretion, from providing a perpetual or an extended term approval for an initially approved event or activity.

I. Water. This provision is an exception to Section 2.I above. The Grantors reserve the right to use water withdrawn from the Property in support of the agricultural use of the adjacent land of the Grantor, said other land identified on the Easement Plan recorded herewith as "Conservation Easement Area 'A'" and more particularly bounded and described in Appendix "B" hereto. Said withdrawal shall be consistent with the provisions of Section 2.D above. Further, said withdrawal shall not significantly impair the agricultural viability of the Property.

J. Posting. The Grantors reserve the right to post the Property against public access to agricultural cropland (including hayfields) during the planting and growing season, to agricultural land with perennial plantings (such as blueberry bushes) susceptible to damage from foot traffic or other allowed public uses, to lands while being grazed by livestock, and to forestland during harvesting or other forest management activities.

4. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

- A. The Grantors agree to notify the Grantee in writing at least ten (10) days before the transfer of title to the Property.
- B. The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.
- C. Grantors agree to incorporate by reference the terms of this Conservation Easement Deed in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the property, including, without limitation, a leasehold interest.

5. BENEFITS AND BURDENs

The burden of the Conservation Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Conservation Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the United States, or any subdivision of either of them, consistent with Section 170(c)(1) of the United States Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas, agrees to and is capable of protecting the Conservation Purposes of this Conservation Easement, and has the resources to enforce the restrictions of this Conservation Easement. Any such assignee or transferee shall have like power of assignment or transfer.

6. AFFIRMATIVE RIGHTS OF GRANTEE (with Grant of Limited Access Across 60' Strip of Land)

- A. The Grantee, Executory Interest Holder, and United States shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance with and to enforce this Conservation Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Conservation Easement. For these purposes only, and for the benefit of the Property, the Grantor hereby also conveys and grants to the Grantee, Executory Interest Holder, and United States an appurtenant right of access for pedestrian access only from and to NH Route 108 (Portsmouth Avenue) to and from the Property across the 60 foot wide strip of land parallel to NH Route 108 and identified on the Plan by the label "See Note #15D Area = 19,049 s.f." described in Appendix C attached hereto, and subject to a WARRANTY ACCESS AND PUBLIC UTILITY EASEMENT DEED from the Grantor to the Town of Stratham recorded prior hereto. The burden and benefit of this right of access shall run with the land.
- B. To facilitate such inspection and to identify the Property as conservation land protected by the Grantee, the Grantee shall have the right to place signs, each of which shall not exceed thirty (30) square inches in size, along the Property's boundaries.

## 7. RESOLUTION OF DISAGREEMENTS

- A. The Grantors and the Grantee desire that issues arising from time to time concerning uses or activities in light of the provisions of the Conservation Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantors and the Grantee agree that if either party becomes concerned whether any use or activity (which together for the purposes of this Section, "Resolution of Disagreements," shall be referred to as the "Activity") complies with the provisions of this Conservation Easement Deed, wherever reasonably possible the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.
- B. If informal dialogue does not resolve a disagreement regarding the Activity, and the Grantors agree not to proceed or to continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Exeter, New Hampshire, or such other location as the parties shall agree. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.
- C. If the parties agree to bypass mediation, if the disagreement concerning the Activity has not been resolved by mediation within sixty (60) days after delivery of the notice of mediation, or if the parties are unable to agree on a mediator within ten (10) days after delivery of the notice of mediation, the disagreement shall be submitted to binding arbitration in accordance with New Hampshire RSA 542. The Grantors and the Grantee shall each choose an arbitrator within twenty (20) days of the delivery of written notice from either party referring the matter to arbitration. The arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrators so chosen shall forthwith set as early a hearing date as is practicable, which they may postpone only for good cause shown. The arbitration hearing shall be conducted in Exeter, New Hampshire, or such other location as the parties shall agree to. A decision by two of the three arbitrators, made as soon as practicable after submission of the matter, shall be binding upon the parties and shall be enforceable as part of this Conservation Easement.
- D. Notwithstanding the availability of mediation and arbitration to address disagreements concerning the compliance of any Activity with the provisions of this Conservation Easement, if the Grantee believes that some action or inaction of the Grantors or a third party is causing irreparable harm or damage to the Property, the Grantee may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any court of competent jurisdiction to cause the cessation of any such damage or harm, to enforce the terms of this Conservation Easement, to enjoin any violation by permanent injunction, and to require the restoration of the Property to its condition prior to any breach.

- E. If the United States exercises its rights under this Conservation Easement Deed, this provision (Section 7.A-D) will not apply.
- 8. **BREACH OF CONSERVATION EASEMENT – GRANTEE’S REMEDIES**  
To the extent practicable, and without jeopardizing its right to enforce the terms of this Easement, in its sole discretion, the Grantee agrees to address the actual or threatened breach of this Conservation Easement through the procedures outlined in Section 7 above.
  - A. If the Grantee determines that a breach of this Conservation Easement has occurred or is threatened, the Grantee shall notify the Grantors in writing of such breach and demand corrective action to cure the breach and, where the breach involves injury to the Property, to restore the portion of the Property so injured to its prior condition.
  - B. The Grantors shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage. The Grantors shall promptly notify the Grantee of its actions taken hereunder.
  - C. If the Grantors fail to perform their obligations under the immediately preceding paragraph B. above, or fails to continue diligently to cure any breach until finally cured, the Grantee may undertake any actions that are reasonably necessary to repair any damage in the Grantors’ name or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury.
  - D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation features of the Property, the Grantee may pursue its remedies under this Section 8 without prior notice to the Grantors or without waiting for the period provided for cure to expire.
  - E. The Grantee shall be entitled to recover damages from the party directly or primarily responsible for violation of the provisions of this Conservation Easement Deed or injury to any conservation features protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, or environmental attributes of the Property. Without limiting the Grantors’ liability therefore, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.
  - F. The Grantee’s rights under this Section 8 apply equally in the event of either actual or threatened breach of this Conservation Easement Deed, and are in addition to the provisions of the Section 7 which section shall also apply to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Grantee’s rights hereunder.
  - G. The Grantors and the Grantee acknowledge and agree that should the Grantee determine,

in its sole discretion, that the conservation features protected by this Conservation Easement are in immediate danger of irreparable harm, the Grantee may seek the injunctive relief described in paragraph C of this Section 8 both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Conservation Easement Deed, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this Section 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- H. Provided that the Grantors are directly or primarily responsible for the breach, all reasonable costs incurred by the Grantee in enforcing the terms of this Conservation Easement Deed against the Grantors, including, without limitation, staff and consultant costs, reasonable attorneys' fees and costs and expenses of suit, and any costs of restoration necessitated by the Grantors' breach of this Conservation Easement shall be borne by the Grantors; and provided further, however, that if the Grantors ultimately prevail in a judicial enforcement action each party shall bear its own costs. Notwithstanding the foregoing, if the Grantee initiates litigation against the Grantors to enforce this Conservation Easement Deed, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Grantee to reimburse the Grantors' reasonable costs and reasonable attorney's fees in defending the action.
- I. Forbearance by the Grantee to exercise its rights under this Conservation Easement Deed in the event of any breach of any term thereof by the Grantors shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement Deed or of any of the Grantee's rights hereunder. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantors shall impair such right or remedy or be construed as a waiver. The Grantors hereby waive any defense of laches or estoppel.
- J. Nothing contained in this Conservation Easement Deed shall be construed to entitle the Grantee to bring any action against the Grantors for any injury to or change in the Property resulting from causes beyond the Grantors' control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Grantors under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. The Grantee and the Grantors reserve the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section 8 against any third party responsible for any actions inconsistent with the provisions of this Conservation Easement Deed.

## 9. RIGHTS OF ENFORCEMENT OF THE UNITED STATES OF AMERICA

- A. Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will exercise these rights under the following circumstances: In the event that the Grantee fails to enforce any of

the terms of this Conservation Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States' rights to enforce the terms of this Conservation Easement through any and all authorities available under Federal or State law.

- B. The United States shall have reasonable access to the Property and all of its parts for such inspection as necessary to determine compliance with and enforce the terms of this Conservation Easement Deed, and to exercise the rights conveyed hereby and to maintain Conservation Easement boundaries if the United States desires.

#### 10. EXECUTORY INTEREST

- A. The Executory Interest Holder shall have reasonable access to the Conservation Easement Property and all of its parts for such inspection as necessary to determine compliance with and enforce the terms of this Conservation Easement Deed.
- B. If Grantee ceases to enforce the Conservation Easement conveyed hereby or refuses to enforce it within thirty (30) days after receipt of written notice, delivered in hand or certified mail, return receipt requested, from the Executory Interest Holder, identifying (a) specific breach of conduct; (b) the specific failure on the part of the Grantee to enforce; and (c) requesting such enforcement and the United States declines to exercise its rights set forth at Section 9 above, then said Executory Interest Holder shall have the right to enforce this Conservation Easement, pursuant to Section 8 above. Any dispute between the Grantee and Executory Interest Holder regarding the specific breach of conduct or the specific failure on the part of the Grantee to enforce said breach of conduct shall be subject to the dispute resolution process outlined in Section 7.A. through Section 7.C. above, by and between the Executory Interest Holder and Grantee. However, in such circumstance, the Executory Interest Holder shall then also retain the right to request that a Court of competent jurisdiction terminate the interest of the Grantee in the Property by filing an action to quiet title in the appropriate Court. If said Court determines that the Grantee has failed to substantially enforce this Conservation Easement, then the rights and obligations under this Conservation Easement shall immediately vest in the Executory Interest Holder who shall then assume all interests and responsibilities granted to the Grantee in this deed. However, any such transfer shall not divest the United States of its Grantee status and the rights granted under the terms of this Conservation Easement Deed.
- C. The interests held by the Executory Interest Holder are assignable or transferable with advance permission of the United States to any party qualified to become the Grantee's assignee or transferee as specified in Section 5.A. above. Any such assignee or transferee shall have like power of assignment or transfer.

#### 11. NOTICES

All notices, requests and other communications, required to be given under this Conservation Easement Deed shall be in writing, except as otherwise provided herein, and shall be

delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantors or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

Notices, requests and other communication to the **Grantee** shall be directed to:

Executive Director  
Southeast Land Trust of New Hampshire  
PO Box 675  
Exeter, NH 03833

Notices, requests and other communication to the **Executory Interest Holder** shall be directed to:

Board of Selectmen  
Town of Stratham  
10 Bunker Hill Ave.  
Stratham, NH 03885

Notices, requests and other communication to the **UNITED STATES** shall be directed to:

State Conservationist  
Natural Resources Conservation Service  
Federal Building, 2 Madbury Road  
Durham NH 03824

Notices, requests and other communication to the **GRANTORS** shall be directed to:

W. Douglas Scamman, Jr.  
69 Portsmouth Avenue  
Stratham, NH 03885

Successors in interest to the Grantors shall designate their contact information for notice purposes upon acquiring said interest.

## 12. SEVERABILITY

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

## 13. CONDEMNATION/EXTINGUISHMENT

- A. Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Conservation

Easement conveyed hereby, or whenever all or a part of the Property is lawfully sold without the restrictions imposed hereunder in lieu of exercise of eminent domain, the Grantors and the Grantee shall thereupon act jointly to recover the full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered. Due to the federal interest in this Conservation Easement, the United States must consent to any condemnation action.

- B. The balance of the land damages recovered from such taking or lawful sale in lieu of condemnation or exercise of eminent domain shall be divided between the Grantors, the Grantee, the United States of America, and the Executory Interest Holder, in proportion to the fair market value of their respective interests in that part of the Property condemned. For this purpose, and that of any other judicial extinguishment of this Conservation Easement Deed in whole or in part, the Grantors' interest shall be the amount by which the fair market value of that part of the Property condemned in exercise of eminent domain exceeds the value of the use limitations imposed by the Conservation Easement Deed at the time of the condemnation as determined by an appraisal at condemnation or extinguishment. The Grantors, the Grantee, the United States of America, and the Executory Interest Holder agree the portion of damages recovered that are attributed to the Conservation Easement shall be divided as follows: the Grantee's interest shall be zero percent (0%), the United States' interest shall be thirty-nine and ninety-two hundredths percent (39.92%), and the Executory Interest Holder's interest shall be sixty and eight hundredths percent (60.08%). These percentage values are based upon each party's respective contribution toward the purchase price of the Conservation Easement. Any increase in value attributable to improvements made after the date of the Conservation Easement Deed shall accrue to the party who made the improvements.
- C. The Grantee and Executory Interest Holder shall use its share of the proceeds resulting from condemnation or extinguishment in a manner consistent with and in furtherance of one or more of the conservation purposes set forth herein.

#### 14. ADDITIONAL CONSERVATION EASEMENT

Should the Grantors determine that the expressed Purposes of this Conservation Easement could better be effectuated by the conveyance of an additional easement, the Grantors may execute an additional instrument to that effect, provided that the conservation purposes of this Conservation Easement are not diminished thereby and that a public agency or qualified organization described in the Section "Benefits and Burdens," above, accepts and records the additional easement. Any easement arising after the date of execution of this Conservation Easement Deed will be subordinated, by operation of law or otherwise to this Conservation Easement.

#### 15. NO MERGER

- A. The Grantors and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Conservation Easement Deed set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee, the Executory Interest Holder

or the United States or any successor or assignee shall be deemed to eliminate these Conservation Easement terms, or any portion thereof, pursuant to the doctrine of "merger" or any other legal doctrine

- B. In the event the Grantee takes legal title to Grantors' interest in the Property, the Grantee shall commit the monitoring and enforcement of the Conservation Easement to the Executory Interest Holder (or alternatively, to another qualified organization within the meaning of Section 107(h) (3) of the U.S. Internal Revenue Code (1986), which organization has among its purposes the conservation and preservation of land and water areas until Grantee conveys title away to a successor Grantee.

#### 16. COSTS, LIABILITY AND INDEMNIFICATION

Grantors retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, except for those costs associated with the exercise of the Town of Stratham's rights in Section 3.C and 3.D above.

- A. *Taxes.* Grantors shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Grant.
- B. *General Indemnification.* Grantors shall indemnify and hold harmless the Grantee, the Executory Interest Holder, and the United States, their employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the Grantee, Executory Interest Holder, and the United States may be subject or incur relating to the Property, which may arise from, but is not limited to, Grantors' negligent acts or omissions or Grantors' breach of any representation, warranty, covenant, agreements contained in this Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

Subject to state statutory limits, the Town of Stratham shall indemnify and hold harmless the Grantors, their employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the Grantors may be subject or incur relating to the Town of Stratham's exercise of its rights in Section 3.C and 3.D or the public's use of the Property in so long as such public use is allowed under the terms of this Conservation Easement Section 2.K above, which may arise from the Town of Stratham's negligent acts or omissions in relation to the exercise of the Town of Stratham's rights in Section 3.C and 3.D above.

C. Grantors warrant to the best of Grantors' knowledge that Grantors are in compliance with and shall remain in compliance with, all applicable Environmental Laws, except as noted. Grantors warrant that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property.

Grantors warrant that they have no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property exceeding regulatory limits. Moreover, Grantors hereby promise to indemnify and hold harmless the Grantee and the United States against all costs, claims, demands, penalties and damages, including reasonable attorneys fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantors or any other prior owner of the Property. Grantors' indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantors with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Property by Grantee.

For the purposes of this section C.,

i. Environmental Law or Environmental Laws means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

ii. Hazardous Materials means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

## 17. TITLE WARRANTY

Grantors warrant that they have good title to the Property and shall defend against all claims that may be made against it; that they have the right to convey this Conservation Easement; and that the Property is free and clear of any encumbrances, except those of record at the time of conveyance of this Conservation Easement and listed in Schedule B – Section 2 of the Title Insurance Policy # 72306-82433991, issued by Chicago Title Insurance Company, on file with the Grantee, Executory Interest Holder and United States of America.

**18. SUBORDINATION.**

Any mortgage or lien arising after the date of this Conservation Easement Deed shall be subordinated to the terms of this Conservation Easement Deed.

**19. BASELINE DOCUMENTATION AND STEWARDSHIP RESPONSIBILITIES OF THE GRANTEE**

The Grantee with the cooperation of the Grantor has developed a Baseline Documentation Report which documents the Conservation Values, conservation attributes, and other resource attributes of the Property, as well as the natural and man-made characteristics of the Property, and establishes baseline conditions of the Property at the time of this grant.

To facilitate the fulfillment of its responsibilities under this Conservation Easement, the Grantee shall, among its other obligations:

- i. Maintain baseline information and annually monitor the Property in accordance with applicable policies and guidelines, such as the Standards and Practices of the Land Trust Alliance and those required by the United States of America in the Cooperative Agreement by and between the United States of America and the Grantee and the Town of Stratham, dated July 31, 2009;
- ii. Respond to Grantors' requests for approvals required under this Conservation Easement Deed; and investigate potential Conservation Easement violations and/or encroachments and responding accordingly; and
- iii. Provide an annual monitoring report to the Executory Interest Holder, to NRCS or its successor agency, or to another agency as instructed by the NRCS or successor agency, indicating compliance with the terms of this Conservation Easement Deed and/or actions necessary for compliance.

Copies of the Baseline Documentation Report shall be held by the Grantee, Executory Interest Holder, and the NRCS.

**20. AMENDMENT**

If owing to rare, extraordinary, unforeseen or changed circumstances Grantors, Grantee, Executory Interest Holder, and the United States that an amendment to, or modification of this Easement would be appropriate and desirable, Grantors, Grantee, Executory Interest Holder, and the United States may jointly amend this Easement pursuant to the provisions and limitations of this section, the then current amendment policies of the Grantee, and applicable state and federal law. Any amendment shall be consistent with the Purposes of this Easement, and shall enhance protection of or further clarify, but not impair, the conservation attributes of the Property protected by this Easement. Any Amendment shall not affect the perpetual duration of this Easement, and shall not permit any residential,

commercial, or industrial development of the Property beyond that permitted by the terms of this Easement on its effective date. The amendment shall not affect the qualification of this Easement or the status of the Grantee under any applicable laws, including Section 170(h) or Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or NH RSA 477:45-47, nor shall the amendment affect its perpetual duration of this Easement. Any such amendment shall be executed by the Grantors, Grantee, Executory Interest Holder, and the United States and shall be recorded in the Rockingham County Registry of Deeds. Nothing in this paragraph shall require the Grantors, Grantee, Executory Interest Holder, and the United States to agree to any amendment or to consult or negotiate regarding any amendment.

## 21. CONTROLLING LAWS AND LIBERAL CONSTRUCTION / INTERPRETATION

This Conservation Easement Deed shall be interpreted under the laws of the State of New Hampshire and the United States. Any general rule of construction to the contrary notwithstanding, this Conservation Easement Deed shall be liberally construed to affect the purposes of the Conservation Easement Deed. If any provision in said Deed is found to be ambiguous, an interpretation consistent with the purposes of said Deed that would render the provision valid shall be favored over any interpretation that would render it invalid.

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

This is not a homestead property of the Grantors or any other party.

## TRUSTEE CERTIFICATE

I, W. DOUGLAS SCAMMAN, JR., as Trustee of the W. DOUGLAS SCAMMAN, JR. REVOCABLE TRUST, hereby certify that as such Trustee, I have full and absolute power thereunder to convey any interest in real estate and the improvements thereon held therein and no purchaser or third party shall be bound to inquire whether as such Trustee I have said power or am properly exercising said power or to see to the application of any trusts asset paid to me as such Trustee for conveyance hereof.

IN WITNESS WHEREOF, We have hereunto set our hands this 3 day of  
January, 2011.

*W. Douglas Scamman Jr. Trustee*  
*W. Douglas Scamman Jr. Revocable Trust*

W. Douglas Scamman, Jr., Trustee  
 W. Douglas Scamman, Jr. Revocable Trust

The State of New Hampshire

County of Rockingham

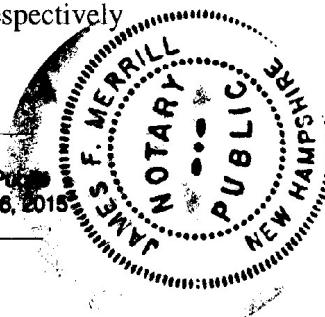
Personally appeared W. Douglas Scamman, Jr., Trustee of W. Douglas Scamman, Jr. Revocable Trust this 3rd day of January, 2011, and respectively acknowledged the foregoing to be his voluntary act and deed.

Before me,

James F. Merrill  
Notary Public

My commission expires: \_\_\_\_\_

JAMES F. MERRILL, Notary Public  
My Commission Expires May 26, 2015



ACCEPTED: SOUTHEAST LAND TRUST OF NEW HAMPSHIRE

By: T. Chamberlin

Title: PRESIDENT

Duly Authorized

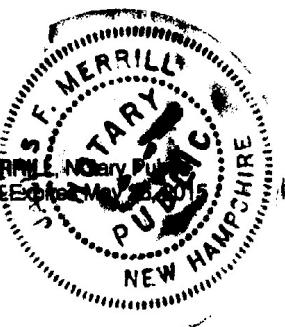
Date: 1/3/2011

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM, ss.

On this 3<sup>rd</sup> day of JANUARY, 2011, before me personally appeared **Thomas Chamberlin, President of the Southeast Land Trust of New Hampshire**, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same as his free act and deed for the purposes therein contained.

James F. Merrill  
Notary Public/Justice of the Peace  
My commission expires: \_\_\_\_\_

JAMES F. MERRILL, Notary Public  
My Commission Expires May 26, 2015



**EXECUTORY INTEREST ACCEPTED BY THE TOWN OF STRATHAM, NEW HAMPSHIRE**

**BOARD OF SELECTMEN**

By: David Canada  
David Canada, Chair, Board of Selectmen

By: Bruno Federico  
Bruno Federico, Selectman

By: Timothy Copeland  
Timothy Copeland, Selectman

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

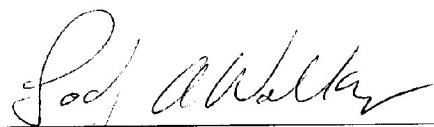
The foregoing Conservation Easement Deed was acknowledged before me this 3<sup>rd</sup> day of January, 2011 by DAVID CANADA, Bruno Federico, and TIMOTHY COPELAND, duly authorized Selectmen of the Town of Stratham Board of Selectmen, on behalf of the Town of Stratham.

Type or Print Name: JAMES F. MERRILL, Notary Public  
Justice of the Peace/Notary Public  
My Commission Expires: May 26, 2015



**ACCEPTANCE OF PROPERTY INTEREST BY THE UNITED STATES OF AMERICA**

The United States of America acting by and through the United States Department of Agriculture, Natural Resources Conservation Service, an agency of the United States Government, on behalf of the Commodity Credit Corporation hereby accepts and approves the foregoing Conservation Easement Deed on 138.77 acres owned by the W. Douglas Scamman Jr. Revocable Trust located on the west side of New Hampshire Route 108 in Stratham, New Hampshire, and the rights conveyed therein.



Assistant State Conservationist for Programs

State of New Hampshire  
County of Strafford

On this 16 day of December, 2010, before me, the undersigned, a Notary Public in and for the State, personally appeared Jody Walker, known or proved to me to be the person whose signature appears above, and who being duly sworn by me, did say that she is the New Hampshire Assistant State Conservationist for Programs of the Natural Resources Conservation Service, United States Department of Agriculture, and as such is authorized to sign on behalf of the United States of America.,

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.



12/16/10

Notary Public for the State of New Hampshire  
BETTY L. ANDERSON, Notary Public  
My Commission Expires June 4, 2013

My Commission expires: \_\_\_\_\_



**APPENDIX A**

**LEGAL DESCRIPTION OF THE PROPERTY  
CONSERVATION AREA "B"**

*Town of Stratham*

BEGINNING AT THE NORTHEASTERLY CORNER OF THE EASEMENT AREA HEREIN DESCRIBED ON THE WESTERLY SIDELINE OF A 60' ACCESS AND UTILITY EASEMENT AS SHOWN ON THE HEREINAFTER REFERENCED PLAN. SAID NORTHEASTERLY CORNER OF THE EASEMENT LIES S 14°40'47" W A DISTANCE OF 93.29' FROM A 5/8" REBAR AT THE NORTHWESTERLY CORNER OF SAID 60' ACCESS AND UTILITY EASEMENT. SAID REBAR LIES N 75°20'20" W A DISTANCE OF 60.00' FROM A GRANITE BOUND ON THE WESTERLY SIDE OF ROUTE 108 (A.K.A. PORTSMOUTH AVE.) IN THE TOWN OF STRATHAM, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE;

THENCE RUNNING S 14°40'47" W A DISTANCE OF 224.20' ALONG SAID EASEMENT TO A 5/8" REBAR AT LAND OF THE KARL M. SCAMMAN REVOCABLE TRUST;

THENCE ALONG SAID KARL M. SCAMMAN REVOCABLE TRUST THE FOLLOWING COURSES;

- N 75°20'10" W A DISTANCE OF 339.58' TO A STEEL STAKE;
- THENCE S 08°35'13" W A DISTANCE OF 771.52' TO A STEEL STAKE AT "PROPOSED LOT 1" AS SHOWN ON HEREINAFTER PLAN;
- THENCE ALONG SAID "PROPOSED LOT 1" THE FOLLOWING COURSES;
- THENCE N 80°21'55" W A DISTANCE OF 411.58' TO A GRANITE BOUND;
- THENCE S 03°04'26" E A DISTANCE OF 483.55' TO A GRANITE BOUND;
- THENCE S 58°21'28" E A DISTANCE OF 116.55' TO A GRANITE BOUND AT LAND OF 43-45 PORTSMOUTH AVENUE LLC;

THENCE S 17°46'00" W A DISTANCE OF 194.00' ALONG SAID 43-45 PORTSMOUTH AVENUE LLC LAND TO A GRANITE BOUND AT "AREA A" AS SHOWN ON AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG SAID "AREA A" THE FOLLOWING COURSES;

- N 72°14'00" W A DISTANCE OF 158.50' TO A GRANITE BOUND;
- THENCE S 17°46'00" W A DISTANCE OF 566.58' TO AN ANGLE IRON AT LAND OF THE W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST;

THENCE S 04°50'03" E A DISTANCE OF 199.33' ALONG SAID W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST LAND TO A 1" ANGLE IRON ON THE NORTHERLY SIDE OF RIVER ROAD;

THENCE ALONG SAID RIVER ROAD THE FOLLOWING COURSES

- S 72°03'46" W A DISTANCE OF 106.14' TO A DRILL HOLE AT THE FACE OF A STONE WALL;

- THENCE S 83°45'01" W A DISTANCE OF 55.40' TO A DRILL HOLE AT THE END OF SAID STONE WALL;
- THENCE N 81°58'13" W A DISTANCE OF 156.18' TO A POINT;
- THENCE N 77°45'45" W A DISTANCE OF 119.11' TO A POINT;
- THENCE N 75°42'46" W A DISTANCE OF 272.41' TO A GRANITE BOUND AT "PROPOSED LOT 2" AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG SAID "PROPOSED LOT 2" THE FOLLOWING COURSES;

- N 20°53'16" E A DISTANCE OF 700.72' TO A GRANITE BOUND;
- THENCE N 69°06'44" W A DISTANCE OF 325.24' TO A GRANITE BOUND SET AT "AREA B" AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG SAID "AREA B" THE FOLLOWING COURSES;

- N 69°06'44" W A DISTANCE OF 343.63' TO A GRANITE BOUND;
- THENCE S 74°59'46" W A DISTANCE OF 143.62' TO A CONCRETE BOUND AT LAND OF THE SHELIA A. SCAMMAN REVOCABLE TRUST;

THENCE S 74°59'46" W A DISTANCE OF 89.81' ALONG SAID SHELIA A. SCAMMAN REVOCABLE TRUST LAND TO A CONCRETE BOUND ON THE NORTHERLY SIDE OF GRETA'S WAY;

- THENCE ALONG SAID GRETTA'S WAY THE FOLLOWING COURSES;
- N 39°47'32" W A DISTANCE OF 348.52' TO A CONCRETE BOUND;
- THENCE N 50°17'03" E A DISTANCE OF 50.03' TO A CONCRETE BOUND;
- THENCE N 39°48'06" W A DISTANCE OF 50.29' TO A CONCRETE BOUND AT LAND OF BRUCE AND ALLISON SCAMMAN;

THENCE N 47°28'43" W A DISTANCE OF 298.51' ALONG SAID SCAMMAN LAND TO A CONCRETE BOUND AT THE SOUTH EASTERLY CORNER OF "CONSERVATION AREA A" AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG SAID "CONSERVATION AREA A" THE FOLLOWING COURSES;

- N 03°38'55" W A DISTANCE OF 1405.24' TO A POINT;
- THENCE N 44°47'29" E A DISTANCE OF 1212.17' TO A IRON PIPE AT LAND OF RICHARD R. AND CLAIRE S. JETTE;

THENCE S 64°21'52" E A DISTANCE OF 438.82' ALONG SAID JETTE LAND, LAND OF JOHN M. AND KRYSTYNA BAKER, AND PARTIALLY ALONG A REMNANT STONE WALL ALONG LAND OF LUCINDA S. GARDNER TO A DRILL HOLE;

THENCE S 63°59'01" E A DISTANCE OF 116.24' ALONG LAND OF SAID GARDNER AND LAND OF GLENN T. AND SALLY A. BARBER TO A DRILL HOLE IN SAID REMNANT STONE WALL;

THENCE S 63°44'52" E A DISTANCE OF 198.08 PARTIALLY ALONG SAID REMNANT STONE WALL ALONG SAID BARBER LAND AND LAND OF JAMES F. PLOURDE AND DENNA R. EMERSON TO A 3/4" IRON PIPE AT LAND OF TIMOTHY D. AND AUDRA L. COPELAND;

THENCE S 63°53'43" E A DISTANCE OF 189.06' ALONG SAID COPELAND LAND AND LAND OF GEORGE D. COOPER LIVING REVOCABLE TRUST TO A DRILL HOLE IN THE CORNER OF A STONE WALL AT OTHER LAND OF SAID GEORGE D. COOPER LIVING REVOCABLE TRUST;

THENCE ALONG SAID STONE WALL THE FOLLOWING COURSES;

- S 64°21'48" E A DISTANCE OF 159.91' ALONG SAID GEORGE D. COOPER LIVING REVOCABLE TRUST LAND TO A 1" IRON PIPE AT LAND OF JOHN A. AND PATRICIA A. SAPIENZA;
- THENCE S 63°58'27" E A DISTANCE OF 199.39' ALONG SAID SAPIENZA LAND TO A 1" IRON PIPE AT LAND OF ANDREW SR. AND GINA ANDERSON;
- THENCE S 63°15'44" E A DISTANCE OF 48.16' ALONG SAID ANDERSON LAND TO A DRILL HOLE AT LAND OF THE STELLA E. SCAMMAN REVOCABLE TRUST;

THENCE LEAVING SAID STONE WALL AND RUNNING ALONG SAID STELLA E. SCAMMAN REVOCABLE TRUST LAND THE FOLLOWING COURSES;

- S 26°39'18" W A DISTANCE OF 540.42';
- THENCE S 75°20'20" E A DISTANCE OF 930.59';
- THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 233.00', A CHORD DIRECTION OF S 60°30'44" E, A CHORD LENGTH OF 119.22' AND AN ARC LENGTH OF 120.56';
- THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 317.00', A CHORD DIRECTION OF S 58°38'55" E, A CHORD LENGTH OF 142.12' AND AN ARC LENGTH OF 143.34';
- THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 22.00', A CHORD DIRECTION OF S 28°27'41" E, A CHORD LENGTH OF 30.09' AND AN ARC LENGTH OF 33.13' TO THE POINT OF BEGINNING

SAID AREA CONTAINS 6,044,932 SQUARE FEET OR 138.77 ACRES, AND IS SHOWN AS "CONSERVATION AREA B" ON A PLAN ENTITLED "SUBDIVISION PLAN & LOT LINE REVISION PLAN OF LAND OF W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST (TAX MAP 1, LOT 13 & 13-11). SHEILA A. SCAMMAN REVOCABLE TRUST (TAX MAP 1, LOT 13-5), ROLAND & MONICA SCHELLER (TAX MAP 8, LOT 30), ROUTE 108 & RIVER ROAD, STRATHAM, NEW HAMPSHIRE", DATED SEP. 22, 2009 AND WITH A REVISION DATE OF 8/31/10 BY DOUCET SURVEY, INC. RECORDED PRIOR HERETO AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.

## APPENDIX B

### LEGAL DESCRIPTION OF CONSERVATION AREA "A"

*Town of Stratham*

BEGINNING AT A CONCRETE BOUND AT THE SOUTH EASTERLY CORNER OF THE EASEMENT AREA HEREIN DESCRIBED AND AT THE NORTH WESTERLY CORNER OF LAND OF BRUCE AND ALLISON SCAMMAN AND THE SOUTH WESTERLY CORNER OF CONSERVATION AREA "B" AS SHOWN ON THE HEREINAFTER PLAN, SAID CONCRETE BOUND LIES N 47°28'43" W A DISTANCE OF 298.51' FROM A CONCRETE BOUND ON THE NORTHERLY SIDE OF GRETA'S WAY IN THE TOWN OF STRATHAM, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE;

THENCE S 52°12'02" W A DISTANCE OF 257.23' TO A CONCRETE BOUND AT LAND OF RUSSELL M. AND CATHERINE A. SQUIRE;

THENCE N 38°20'43" W A DISTANCE OF 244.31' ALONG LAND OF SAID SQUIRE AND DAVID M. AND AMY C. WATERS TO A IRON PIPE AT LAND OF RALPH D. JR. AND CYNTHIA L. SCAMMAN;

THENCE N 57°02'41" W A DISTANCE OF 256.29' ALONG SAID SCAMMAN LAND TO A 3/4" REBAR AT LAND OF JOHN AND PATRICIA POLZELLA;

THENCE N 50°51'40" W A DISTANCE OF 149.92' ALONG SAID POLZELLA LAND TO A 5/8" RE-BAR AT LAND OF DENNIS J. III AND THERESA A. ABBOTT;

THENCE N 45°47'15" W A DISTANCE OF 300.00' ALONG SAID ABBOTT LAND TO A 5/8" RE-BAR AT LAND OF BRUCE C. NUTBROWN;

THENCE N 39°56'31" W A DISTANCE OF 150.00' ALONG SAID NUTBROWN LAND TO A IRON ROD AT LAND OF ROLAND D. AND MONICA SCHELLER;

THENCE N 45°22'59" W A DISTANCE OF 150.00' ALONG SAID SCHELLER LAND TO A POINT AT THE NORTH EASTERLY CORNER OF AREA "C" AS SHOWN ON THE HEREINAFTER PLAN;

THENCE N 45°22'59" W A DISTANCE OF 55.97' ALONG AREA "C" TO A GRANITE BOUND AT LAND OF LAND OF RICHARD W. AND MARCIA W. MACCALLUM;

THENCE N 16°57'37" E A DISTANCE OF 238.69' ALONG LAND OF SAID MACCALLUM AND LAND OF MICHELLE M. RICHARDS TO A CONCRETE BOUND AT LAND OF KATHLEEN C. BROTHERS;

THENCE ALONG SAID BROTHERS LAND THE FOLLOWING COURSES;

- N 19°51'56" E A DISTANCE OF 149.90' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 16°31'44" E A DISTANCE OF 240.44' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 23°46'11" E A DISTANCE OF 141.23' TO A GRANITE BOUND AT LAND OF STEPHEN R. AND DEBORAH K. TENTINDO;

THENCE ALONG SAID TENTINDO LAND THE FOLLOWING COURSES;

- N 20°59'00" E A DISTANCE OF 77.16' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 18°01'26" E A DISTANCE OF 179.93' TO A 14" PINE TREE WITH A NAIL;
- THENCE N 74°19'33" W A DISTANCE OF 71.51' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 78°06'44" W A DISTANCE OF 69.95' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 83°36'01" W A DISTANCE OF 140.97' TO A RAILROAD SPIKE ON THE NORTHERLY SIDE OF A FENCE POST AT LAND OF THE TOWN OF STRATHAM;

THENCE ALONG SAID TOWN OF STRATHAM LAND THE FOLLOWING COURSES;

- N 25°57'18" E A DISTANCE OF 77.60' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 22°01'15" E A DISTANCE OF 50.34' TO A DECIDUOUS TREE WITH BARBED WIRE;
- THENCE N 28°07'53" E A DISTANCE OF 214.36' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE N 26°04'09" E A DISTANCE OF 157.31' TO A WOOD FENCE POST WITH BARBED WIRE;
- THENCE N 28°01'27" E A DISTANCE OF 93.37' TO A 5/8" RE-BAR;
- THENCE N 27°11'28" E A DISTANCE OF 214.35' TO A 5/8" RE-BAR;
- THENCE N 30°04'44" E A DISTANCE OF 235.58' TO A 5/8" RE-BAR;
- THENCE N 20°48'28" E A DISTANCE OF 118.89' TO A 5/8" RE-BAR;
- THENCE N 66°23'48" W A DISTANCE OF 393.50' TO A 5/8" RE-BAR;
- THENCE N 66°49'12" W A DISTANCE OF 92.22' TO A 5/8" RE-BAR;
- THENCE N 76°14'01" W A DISTANCE OF 114.87' TO A 5/8" RE-BAR;
- THENCE N 75°00'41" W A DISTANCE OF APPROXIMATELY 23' TO THE MEAN HIGH WATER LINE ON THE NORTHERLY SIDE OF A TIDAL CREEK;

THENCE FOLLOWING SAID MEAN HIGH WATER LINE FOR APPROXIMATELY 1250' IN A GENERALLY NORTHERLY, EASTERLY, AND WESTERLY DIRECTION ALONG THE NORTHERLY SIDE OF SAID CREEK TO AND ALONG THE EASTERLY SIDE OF THE SQUAMSCOTT RIVER IN A NORTHERLY DIRECTION TO A POINT AT LAND OF ROBERT S. LEVINE,

THENCE S 56°59'34" E A DISTANCE OF APPROXIMATELY 118' TO A CONIFEROUS TREE WITH BARBED WIRE (A TIE LINE OF N 40°37'19" W A DISTANCE OF 389.70' SHALL BE USED FOR CLOSURE PURPOSES RUNNING FROM THE LAST MENTIONED 5/8" RE-BAR TO SAID CONIFEROUS TREE WITH BARBED WIRE);

THENCE ALONG SAID LEVINE LAND THE FOLLOWING COURSES;

- S 61°14'33" E A DISTANCE OF 64.20' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 65°01'58" E A DISTANCE OF 95.31' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 61°06'29" E A DISTANCE OF 62.92' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 66°04'05" E A DISTANCE OF 104.53' TO A TREE STUMP WITH BARBED WIRE;
- THENCE S 64°16'03" E A DISTANCE OF 70.50' TO A DECIDUOUS TREE WITH BARBED WIRE;
- THENCE S 55°19'40" E A DISTANCE OF 34.27' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 65°40'41" E A DISTANCE OF 400.97' TO A TREE STUMP WITH BARBED WIRE AT LAND OF CARL J. AND ANNIE M. SUTKUS;

THENCE ALONG SAID SUTKUS LAND THE FOLLOWING COURSES;

- S 62°03'34" E A DISTANCE OF 114.91' TO A WOOD FENCE POST WITH BARBED WIRE;
- THENCE S 64°38'26" E A DISTANCE OF 147.99' TO A DECIDUOUS TREE WITH BARBED WIRE;
- THENCE S 56°46'14" E A DISTANCE OF 25.62' TO A DECIDUOUS TREE WITH BARBED WIRE;
- THENCE S 65°37'42" E A DISTANCE OF 229.88' TO A WOOD FENCE POST WITH BARBED WIRE;
- THENCE S 62°07'55" E A DISTANCE OF 217.29' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 46°52'36" E A DISTANCE OF 20.60' TO A CONIFEROUS TREE WITH BARBED WIRE;
- THENCE S 66°40'05" E A DISTANCE OF 65.56' TO A TREE STUMP WITH BARBED WIRE;
- THENCE S 62°41'31" E A DISTANCE OF 82.89' TO A 5/8" RE-BAR AT LAND OF BORIS J. LVIN AND SVETLANA LUKYANOVA;

THENCE S 63°44'58" E A DISTANCE OF 149.93' ALONG SAID LVIN AND LUKYANOVA LAND TO A 5/8" RE-BAR AT LAND OF HEIDI CRUSBERG & ROBERT M. ROSEEN;

THENCE S 66°04'22" E A DISTANCE OF 149.92' ALONG SAID CRUSBERG AND ROSEEN LAND TO 3/4" IRON PIPE AT LAND OF RICHARD O. GUILLEMETTE;

THENCE S 65°09'58" E A DISTANCE OF 150.21' ALONG SAID GUILLEMETTE LAND TO A 1" IRON PIPE AT LAND OF JOHN L. AND PENNY S. WOOD;

THENCE S 62°09'58" E A DISTANCE OF 149.99' ALONG SAID WOOD LAND TO A 1" IRON PIPE;

THENCE S 63°07'36" E A DISTANCE OF 49.85' TO A 1" IRON PIPE AT LAND OF RICHARD R. AND CLAIRE S. JETTE AND THE NORTH WESTERLY CORNER OF CONSERVATION AREA "B" AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG CONSERVATION AREA "B" THE FOLLOWING COURSES;

S 44°47'29" W A DISTANCE OF 1212.17' TO A POINT;

THENCE S 03°38'55" E A DISTANCE OF 1405.24' TO THE BOUNDS BEGUN AT;

SAID AREA CONTAINS APPROXIMATELY 2,937,100 SQUARE FEET OR 67.4 ACRES, AND IS SHOWN AS "CONSERVATION AREA A" ON A PLAN ENTITLED "SUBDIVISION PLAN & LOT LINE REVISION PLAN OF LAND OF W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST (TAX MAP 1, LOT 13 & 13-11), SHEILA A. SCAMMAN REVOCABLE TRUST (TAX MAP 1, LOT 13-5), ROLAND & MONICA SCHELLER (TAX MAP 8, LOT 30), ROUTE 108 & RIVER ROAD, STRATHAM, NEW HAMPSHIRE", DATED SEP. 22, 2009 AND WITH A REVISION DATE OF 8/31/10 BY DOUCET SURVEY, INC. RECORDED PRIOR HERETO AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.

**APPENDIX C**

**LEGAL DESCRIPTION OF 60' STRIP OF LAND**

*Town of Stratham*

BEGINNING AT A STEEL STAKE AT THE SOUTH EASTERLY CORNER OF THE EASEMENT AREA HEREIN DESCRIBED ON THE WESTERLY SIDE OF ROUTE 108 (ALSO REFERRED TO AS PORTSMOUTH AVE.) AT THE NORTH EASTERLY CORNER OF LAND OF THE KARL M. SCAMMAN REVOCABLE TRUST IN THE TOWN OF STRATHAM, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE;

THENCE N 75°20'10" W A DISTANCE OF 60.00' TO A 5/8" RE-BAR ALONG SAID KARL M. SCAMMAN REVOCABLE TRUST LAND TO "CONSERVATION AREA 'B'" AS SHOWN ON HEREINAFTER PLAN;

THENCE ALONG SAID "CONSERVATION AREA 'B'" THE FOLLOWING COURSES; N 14°40'47" E A DISTANCE OF 224.20' TO A POINT;

THENCE N 14°40'47" E A DISTANCE OF 93.29' TO A POINT AT LAND OF STELLA E. SCAMMAN REVOCABLE TRUST;

THENCE S 75°20'20" E A DISTANCE OF 60.00' ALONG SAID STELLA E. SCAMMAN REVOCABLE TRUST LAND TO A GRANITE BOUND ON THE WESTERLY SIDE OF ROUTE 108(A.K.A. PORTSMOUTH AVE.);

THENCE S 14°40'47" W A DISTANCE OF 317.49' ALONG SAID ROUTE 108 TO THE BOUNDS BEGUN AT;

SAID AREA CONTAINS 19,049 SQUARE FEET OR 0.437 ACRES, AND IS IDENTIFIED BY A LABEL "SEE NOTE #15D AREA = 19,049 S.F" ON A PLAN ENTITLED "SUBDIVISION PLAN & LOT LINE REVISION PLAN OF LAND OF W. DOUGLAS SCAMMAN JR. REVOCABLE TRUST (TAX MAP 1, LOT 13 & 13-11), SHEILA A. SCAMMAN REVOCABLE TRUST (TAX MAP 1, LOT 13-5), ROLAND & MONICA SCHELLER (TAX MAP 8, LOT 30), ROUTE 108 & RIVER ROAD, STRATHAM, NEW HAMPSHIRE", DATED SEP. 22, 2009 AND WITH A REVISION DATE OF 8/31/10 BY DOUCET SURVEY, INC. TO BE RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.