

AGRICULTURAL PRESERVATION RESTRICTION

WE, JAMES A. STUART AND LORRAINE A. STUART and HELEN L. VANLEER, all of Stratham, in the County of Rockingham and State of New Hampshire,

hereinafter referred to as "Grantors"), for

in consideration paid, grant to the STATE OF NEW HAMPSHIRE, its successors, and assigns (hereinafter referred to as "Grantee"), acting through the Agricultural Lands Preservation Committee and the Commissioner of the Department of Agriculture, with a mailing address of 85 Manchester Street, Concord, New Hampshire 03301, with the Warranty Covenants specified in RSA 477:27, the agricultural land development rights to constitute an agricultural preservation restriction pursuant to RSA 36-D(Supp.) and RSA 477:45-47 (Supp.) on the site located in the Town of Stratham, County of Rockingham, State of New Hampshire, described as follows:

Two parcels of land, part of the Stuart Farm situated in Stratham, New Hampshire, development rights for which are described as follows:

Parcel 1. Beginning at a point on the Southerly side of the right-of-way leading to the building complex of the Stuart Farm on the Westerly sideline of Route 108, thence running by the following courses and distances: South fifty degrees thirty-five minutes fifty-three seconds East ninety and fifty-four hundredths (90.54) feet; Southerly by a convex curve having a radius of thirteen hundred twenty-one and eighteen hundredths (1321.18) feet and an arc length of seven hundred sixty-seven and seven hundredths (767.07) feet; South seventeen degrees nineteen minutes fifty-seven seconds East twenty-six hundred twenty-five and thirty hundredths (2625.30) feet; South fifty-five degrees twenty-four minutes three seconds East three hundred sixty and thirty-nine hundredths (360.39) feet; North forty degrees thirty minutes fifty-five seconds West three hundred fifty-seven and twenty-one hundredths (3547.21) feet; South forty degrees fifty-seven minutes fifty-eight seconds West one hundred eighty-eight and fifty-two hundredths (188.52) feet; North eighty-one degrees fifty-eight minutes sixteen seconds West sixty-eight and eighteen hundredths (68.18) feet; North twenty-six degrees five minutes fifty-seconds West four hundred three and eighty hundredths (403.80) feet; North seven degrees fifty-six minutes no seconds West seven hundred seventy-one and nineteen hundredths (771.19) feet; North twenty-six degrees fifty-five minutes fourteen seconds East four hundred fifty-eight and two hundredths (458.02) feet; North twenty degrees thirteen minutes no seconds West three hundred six and sixty-five hundredths (306.65) feet; North forty-seven degrees forty-three minutes fifty-five seconds West one hundred eighty-four and forty-five hundredths (184.45) feet; North sixteen degrees twenty minutes forty-seven seconds West four hundred forty-four and thirty-nine hundredths (444.39) feet; North twenty-one degrees twenty-one minutes thirty-two seconds East one hundred twenty-four and eighty-four hundredths (124.84) feet; North forty-seven degrees fifty minutes twelve seconds West six hundred seventeen and ninety-five hundredths (617.95) feet; North forty degrees thirty-four minutes thirty-six seconds East four hundred sixty-four and twenty-six hundredths (464.26) feet to the point of beginning. Said parcel containing forty and seventy-two hundredths (40.72) acres.

Parcel 2. Beginning at a point on the Southerly side of said right-of-way approximately eight hundred seventy (870) feet West of the Westerly sideline of said Route 108, thence running by the following courses and distances: South thirty-one degrees no minutes thirty-eight seconds East four hundred eleven and sixty-five hundredths (411.65) feet; South eighteen degrees three minutes thirty-eight seconds East five hundred fifty-eight and eighty-six hundredths (558.86) feet; South two degrees fifty-seven minutes four seconds West seven hundred thirty-eight and eighty hundredths (738.80) feet; South seventy-six degrees twenty-five minutes seventeen seconds West two hundred forty and forty-nine hundredths (240.49) feet; South nine degrees six minutes twenty-five seconds East one hundred twenty-one and forty-five hundredths (121.45) feet; South fifty-nine degrees thirty-four minutes forty-three seconds East one hundred eighty-eight and eight hundredths (188.08) feet; South twenty-one degrees eighteen minutes twenty-five seconds West two hundred thirty-seven and ninety-five hundredths (237.95) feet; South fifty-two degrees forty-seven minutes forty-four seconds East ten hundred twenty-two and ninety-four hundredths (1022.94) feet; South forty-two degrees fifty-two minutes thirty-four seconds West three hundred seventy-nine and seventy-four hundredths (379.74) feet; North forty-nine degrees two minutes six seconds West thirteen

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hundred (1300) feet; South thirty-one degrees forty-five minutes fifty-eight seconds West three hundred eighty-three and seventy-one hundredths (383.71) feet; South fifty-one degrees three minutes forty-eight seconds West three hundred eighty-one and eighty-two hundredths (381.82) feet; North fifty-six degrees eleven minutes fifty-seven seconds West five hundred and twenty hundredths (500.2) feet; South twenty degrees thirty-one minutes fifty-seven seconds West one hundred thirty-nine and twelve hundredths (139.12) feet; North seventy-eight degrees fifty-five minutes thirty-six seconds West one hundred forty-one and twenty-seven hundredths (141.27) feet; North twenty-two degrees fourteen minutes twenty-seven seconds West three hundred eighty-nine and twenty-seven hundredths (389.27) feet; North sixty degrees fifteen minutes eight seconds West two hundred eighty-two and twenty-seven hundredths (282.27) feet; North forty-four degrees thirty-six minutes forty-three seconds West seven hundred fifty and seventeen hundredths (750.17) feet; North no degrees thirteen minutes four seconds West three hundred sixty and twenty-three hundredths (360.23) feet; North seventy-nine degrees twenty-seven minutes thirty-five seconds East ninety-four and seventy-five hundredths (94.75) feet; North one degree eighteen minutes fifty-six seconds West five hundred eleven and eighty-four hundredths (511.84) feet; North eighty-two degrees seven minutes seventeen seconds East three hundred ninety-three and fifty-eight hundredths (353.98) feet; North sixteen degrees eighteen minutes two seconds East one hundred eighty-four and five hundredths (184.05) feet; North forty-nine degrees twenty-one minutes forty-eight seconds East four hundred fifty-five and twenty-one hundredths (455.21) feet; North sixty-seven degrees fifty-six minutes fifty-one seconds East two hundred ninety-three and ninety hundredths (293.90) feet; North thirty-three degrees twenty-four minutes forty-seven seconds East ten hundred twelve and ninety-eight hundredths (1012.98) feet; South forty-seven degrees fourteen minutes fifty-eight seconds East three hundred fourteen and twenty-eight hundredths (314.28) feet; South ten degrees sixteen minutes forty-two seconds West one hundred ninety-five and seventy-seven hundredths (195.77) feet; South forty-seven degrees one minutes forty-seven seconds East ninety-two and sixty-one hundredths (92.61) feet; North sixty-nine degrees twenty-nine minutes fifty-three seconds East eighty-four and eighty-one hundredths (84.81) feet; South twelve degrees forty-eight minutes twenty-seven seconds West two hundred eighty-two (282) feet; South sixty-five degrees no seconds forty-five minutes East two hundred forty-eight and eighty-nine hundredths (248.89) feet; South forty degrees thirty-four minutes thirty-six seconds West four hundred thirteen and forty-three hundredths (413.43) feet; North sixty-three degrees thirty-three seconds thirteen minutes West one hundred twenty and no hundredths (120.00) feet; South forty-five degrees four minutes fifty-six seconds West one hundred thirty-three and forty-three hundredths (133.43) feet; South thirty-six degrees thirty minutes fifty seconds West one hundred sixty and sixty-seven hundredths (166.67) feet; South thirty-eight degrees seven minutes forty-one seconds West one hundred twenty-seven and seventy hundredths (127.70) feet; South seventeen degrees twenty-eight minutes twenty-one seconds West one hundred two and thirty-two hundredths (102.32) feet; South eighty-one degrees one minute thirty-eight seconds West ninety-one and two hundredths (91.02) feet; South forty degrees eleven minutes thirty-six seconds West ninety-five and sixty-five hundredths (95.65) feet; South nineteen degrees fifty-six minutes thirty-one seconds East two hundred fifty-four and forty-nine hundredths (254.49) feet; North seventy-nine degrees twenty-five minutes fifty -- seconds East one hundred seventy-one and fifty-five hundredths (171.55) feet; South eighty-one degrees fifty-one minutes fifty-three seconds East three hundred eighty and twenty-eight hundredths (380.28) feet; North eleven degrees twenty-three minutes eleven seconds West two hundred twenty-six and eighty-seven hundredths (226.87) feet; South eighty-six degrees twenty-five minutes twenty-three seconds West one hundred fifty-one and forty-four hundredths (151.44) feet; North twelve degrees fifty-one minutes fifteen seconds East three hundred ninety-six and fifty-one hundredths (396.51) feet; North forty degrees thirty-four minutes thirty-six seconds East five hundred twenty and eight hundredths (520.08) feet to the point of beginning. Said parcel containing one hundred thirty-two and thirty-five hundredths (132.35) acres.

All angle points of the above courses shall be monumented by iron pins or drill hole unless otherwise indicated on "Plan of Land for James A. and Lorraine A. Stuart and Helen L. Vanleer" prepared by John W. Durgin Associates, Inc., dated February 17, 1981, said plan to be recorded in Rockingham Registry of Deeds.

The terms of the agricultural preservation restriction are as follows: The Grantor(s), their/his/her heirs, executors, administrators, successors, and assigns, and any person claiming by, through or under the above, covenant and agree that they are restrained from constructing on, selling, leasing, or otherwise improving the Site for uses that result in rendering the Site no longer suitable for agricultural use, and from permitting or suffering others to perform such activities. Such restraint shall be appropriate to retaining the Site predominantly in its agricultural use, and without limiting the generality of the foregoing such restraint shall include prohibition of:

1. Construction or placement of building or structures except those to be used for agricultural purposes or for dwellings to be used for family living by the landowner, his immediate family or employees. Construction or placement of (a) dwellings to be used for family living and (b) permanent structures for agriculturally related retail sales purposes shall be subject to the prior approval of the Grantee. Approval for such construction or placement shall be granted only when it will not defeat or derogate from the intent of this restriction. Any building or structure and the land upon which it is situated shall not be sold or otherwise severed from the Site unless the Grantee releases such dwelling, permanent structure or land from the restriction pursuant to RSA 36-B:7(Supp.). Persons deemed to be employees as used herein shall be as follows:

- a. Owner operator(s);
- b. Employees, including full-time, part-time, and seasonal employees; and
- c. Family members.

2. Excavation, dredging or removal of loam, sod, peat, gravel, soil, rock, or other mineral substances in such a manner as to adversely affect the Site's future agricultural potential, except that such activities when incidental to the construction or placement of permitted buildings or structures or when performed as part of an agricultural activity in accordance with sound, generally accepted agricultural practices shall be permitted; and

3. All other acts or uses detrimental to such retention of the Site for Agricultural use.

The agricultural preservation restriction imposed hereby is subject to any prior right, easement, privilege, restriction, condition, or covenant, except that the following right(s), easement(s), privilege(s), restriction(s), conditions(s), or covenant(s) are expressly released herewith due to the acquisition of the Site's agricultural land development rights:

1. Husband/Wife of Grantor releases to Grantee all rights of homestead and other interests in the Site.

The agricultural preservation restriction imposed hereby shall be enforceable by the Grantee against all persons in an action at law, injunction, or other proceeding, and representatives of the Grantee shall be entitled to enter upon the Site in a reasonable manner and at reasonable times to assure compliance with such restriction.

Except as otherwise provided for herein, Grantor(s) retain(s) all customary rights and privileges of ownership including the right to privacy and to carry out all regular agricultural practices which are not prohibited by RSA 36-B:1,II (Supp.). Grant of the agricultural land development rights hereunder does not include the grant of any right of access or right of use of the Site to the public. The Grantee shall not sell or convey the agricultural land development rights acquired hereunder to a third party without the consent of the Grantor(s), or his (her, their) heirs, executors, administrators, successors, and assigns, as the case may be.

The Grantor(s), their/his/her heirs, executors, administrators, successors, assigns, and any person claiming by, through, or under the above, as the case may be, shall be responsible for paying any general property taxes on the Site and any other taxes resulting from ownership of the Site or activities conducted on the Site.

In case the Site or a portion thereof is sought to be taken in the exercise of the eminent domain power, so as to adversely affect the Site's suitability for agricultural use, Grantor(s), their/his/her heirs, executors, administrators, successors, assigns, and any person claiming by, through, or under the above, as the case may be, and the Grantee shall cooperate to ensure that RSA 36-D:12 (Supp.) is complied with, including taking joint or individual legal action where appropriate.

The foregoing restriction is intended to conform to and have the benefit of RSA 36-D (Supp.) and RSA 477:45-47(Supp.). If any provision of this instrument shall be held to be unenforceable by any court of competent jurisdiction, this instrument shall be construed as though such provision had not been included in it. If any provision of this instrument shall be reasonably subject to two or more constructions, one or more of which would render such provision invalid, then such provision shall be given such construction as would render it valid. If any provision of this instrument is found to be ambiguous, it shall be interpreted in accordance with the policy and provisions of RSA 36-D(Supp), the regulations enacted thereunder, and RSA 477:45-47 (Supp.).

WITNESS the hands and seals of James A. Stuart and Lorraine A. Stuart and Helen vanLeer this 3rd day of Nov., 1981.

Witness

Doris Sanderson
to all four

James A. Stuart
James A. Stuart

Lorraine A. Stuart
Lorraine A. Stuart

Helen van Leer
Helen VanLeer

Hans L. van Leer
Hans L. vanLeer

— STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

The foregoing instrument was acknowledged before me on this 3rd day of November, 1981 by James A. Stuart, Lorraine A. Stuart, Helen vanLeer and Hans L. van Leer

Jeffrey P. Cook
Justice of the Peace

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I, Howard C. Townsend, Commissioner of the Department of Agriculture, hereby certify that at its meeting on August 31, 1951 the Agricultural Lands Preservation Committee accepted the above-described Site for acquisition of agricultural land development rights under RSA 36-D(Supp.). I further certify that I approve the form and content of the above-described agricultural preservation restriction and that this instrument constitutes the certificate required by RSA 36-D:10, I(Supp.).

Witness my hand and seal this 3 day of November 1951

Howard C. Townsend
Howard C. Townsend
Commissioner of the Department of
Agriculture