

Ten Acre Conservation Restriction

Grantor : Margery M. Hamlen and Michael E. Mooney, as Trustees of Mainstone Farm Land Trust

Grantees: Sudbury Valley Trustees, Inc. and Town of Wayland

Property Address: off Old Connecticut Path, Wayland, MA

For title see: Middlesex South Registry of Deeds Book 21128 Page 94, Book 21128, Page 97 and Book 68359, Page 62.

**TEN ACRE CONSERVATION RESTRICTION
TO
SUDBURY VALLEY TRUSTEES, INC. AND TOWN OF WAYLAND**

I. GRANTOR CLAUSE:

We, **Margery M. Hamlen and Michael E. Mooney** as Trustees of Mainstone Farm Land Trust u/d/t dated April 1, 1991 recorded with Middlesex South District Registry of Deeds in Book 21128, Page 79 with and address of c/o Nutter McClennen & Fish, LLP, Seaport West, 155 Seaport Boulevard, Boston, MA 02110, for ourselves and our successors and assigns, (“Grantor”), being the owners of fee title for the parcel of land described below, hereby grant, with quitclaim covenants, pursuant to M.G.L. Ch. 184, §31-33, to **Sudbury Valley Trustees, Inc.**, a Massachusetts not-for-profit corporation organized under the provisions of M.G.L. Chapter 180, with a mailing address of 18 Wolbach Road, Sudbury, Massachusetts, 01776 and to the **Town of Wayland**, a Massachusetts municipal corporation, acting by and through its Conservation Commission, in accordance with Massachusetts General Laws Chapter 40 Section 8C, with a mailing address of 41 Cochituate Road, Wayland, MA 01778 (“Grantees”, which expression includes their permitted successors and legal assigns), in perpetuity and exclusively for conservation purposes, and pursuant to Article 97 of the Articles of Amendment of the Constitution of the Commonwealth of Massachusetts, and Section 170(h) of the Internal Revenue Code, for consideration of One Dollar (\$1) paid, the following described perpetual Conservation Restriction on the entirety of a parcel of land located off Old Connecticut Path in the **Town of Wayland**, Massachusetts, containing 10.64 acres more or less, (the “Premises”) which parcel is shown as “Lot 1” on a plan of land entitled “Conservation Restriction and Boundary Line Agreement in Wayland, Middlesex County, Massachusetts” dated _____ 2017 by Samiotes Consultants, Inc., recorded with Middlesex South District Registry of Deeds as Plan _____ of 2017 (the

“Conservation Restriction Plan”). A reduced photocopy of the Conservation Plan is attached hereto as Exhibit A and made a part hereof and full-sized counterparts of the Conservation Restriction Plan are on file with the Grantees. For title, see the following deeds recorded in Middlesex South Registry of Deeds: Book 21128, Page 94, Book 21128, Page 97 and Book 68359, Page 62 (hereinafter referred to as the “Premises”).

II. PURPOSES:

The purposes of this Conservation Restriction are to assure that the Premises will be retained forever in their natural, scenic, agricultural and open condition; to preserve and protect in perpetuity the wildlife, aesthetic, ecological and environmental values of the Premises; and to prevent any use or change that would materially impair or interfere with the conservation values listed below (the “Conservation Values”). The Grantor intends that this Conservation Restriction will confine the use of the Premises to such activities as are consistent with the purposes of this Conservation Restriction.

The Premises contain unusual, unique or outstanding Conservation Values the protection of which in their natural, vegetated, agricultural or open condition will be of benefit to the public. The Conservation Values include the following:

- A. **Open Space Preservation.** The protection of the Premises contributes significantly to the preservation of the natural and scenic character of the Town of Wayland.
- B. **Enhancement of Existing Conservation Land.** The protection of the Premises enhances the open space value of over 600 acres of other permanently protected nearby land, including the surrounding 208 acre Mainstone Farm conservation restriction, making the Premises part of a large network of land protected by the Town and Sudbury Valley Trustees.
- C. **Scenic Protection.** The Premises are part of a distinctive scenic landscape with beautiful views of and across the Premises that are highly visible from nearby public roads including Old Connecticut Path (east), which is designated as a scenic road by the Town of Wayland Scenic Roads Bylaw.
- D. **Protection of Wildlife Habitat.** The Premises contain open fields and woodland, providing quality wildlife habitat for a variety of species.
- E. **Agricultural Preservation.** The Premises contain fields currently used for agriculture and pasturing of livestock, the continuation of which will preserve uses and scenic vistas that are integral to the history of the property and represent the agricultural and farming heritage of the region and of the Town of Wayland. Preservation of the property will protect Prime Agricultural Soils and Soils of Statewide Importance.
- G. **Furtherance of Governmental Conservation Policy.** The Premises are identified in the Massachusetts Department of Conservation and Recreation’s 1982 Landscape Inventory Report, identifying landscapes that should be protected to conserve and protect

natural, cultural, and recreational resources across the Commonwealth. The Premises are also identified as land meriting protection in the Town of Wayland's most recently completed Open Space and Recreation Plan (1995). Protection of the Premises is consistent with the goals of the Wayland Open Space and Recreation Plan to preserve the semi-rural character of the Town; preserve the town's natural resources: water bodies, wetlands, municipal water supply, wildlife habitat, farmland, etc.; and provide opportunities for passive and active outdoor recreation within the Town.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES:

A. Prohibited Acts and Uses. Subject to the exceptions set forth in Paragraph B below, the Grantor will neither perform nor allow others to perform the following acts and uses which are prohibited on, above and below the Premises:

1. Constructing or placing of any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, sight impervious fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, wind turbine, solar energy panel, conduit, line, temporary or permanent lighting, parking lot or any other temporary or permanent structure, utility, or facility on, under, or above the Premises;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resources or natural deposits or other processes such as hydraulic fracturing; alteration of the existing natural topography of the Premises; withdrawal of ground water from the Premises, other than for use on the Premises;
3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, toxic or hazardous chemicals as defined under applicable federal or state law, or other substance or material whatsoever or the installation of underground storage tanks;

4. Cutting, removing or otherwise destroying trees, shrubs, grasses or other vegetation, including leaf litter;
5. The use, parking, or storage of trailers (other than for permitted agricultural uses), or automobiles, trucks, motorcycles, motorized trail bikes, all-terrain vehicles and snowmobiles, or any other motorized or power-driven vehicles, except as necessary for emergency purposes, handicapped accessibility or the conduct of activities permitted in Paragraph B;
6. The conveyance of a part or portion of the Premises alone, or the division or subdivision of the Premises (as compared to the conveyance of the Premises in its entirety which shall be permitted) without the prior written consent of Grantees; but in no event shall any portion of the Premises be used towards building requirements on this or any other parcel. No development rights which have been encumbered or extinguished by this Conservation Restriction shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise;
7. Activities detrimental to wildlife habitat, drainage, flood control, water conservation, water quality, erosion control, soil conservation, or archaeological conservation;
8. Using the Premises for more than *de minimis* commercial recreational purposes as defined at Section 2031(c) of the Code, and conducting any other business, residential or industrial use of the Premises;
9. Pollution, alteration, depletion, diversion, channelization, damming, draining, or extraction of surface water, natural water courses, ponds, marshes, subsurface water or any other water bodies;
10. The construction of any new roads on the Premises;
11. The disruption, removal or destruction of the stone walls or granite fence posts on the Premises;
12. The introduction of non-native species of plants and animals determined by the Commonwealth of Massachusetts to be invasive or otherwise detrimental to the ecology and biodiversity of the Premises and nearby conservation land;
13. Any other activity on or use that is inconsistent with the purposes of this Conservation Restriction or that would materially impair its Conservation Values.

B. Permitted Uses and Exceptions to Prohibited Activities and Uses. The following activities and uses of the Premises are expressly permitted, provided that such uses and activities to the extent described below do not materially impair the Purposes of this Conservation Restriction.

1. Building Envelope. Exclusively within the building envelope as shown on the Conservation Restriction Plan:

(a) The construction, use, maintenance, repair, expansion, or replacement of one (1) single-family house and appurtenant structures, provided that the initial construction or replacement of the entire building is conducted only after prior notice to Grantees as provided in Subparagraph D, that any complete reconstruction or replacement of a house be located substantially on the footprint of the previous house, and provided that no structures exceed the lesser of 35' or 2 ½ stories from original grade, exclusive of chimneys, weathervanes, antennas, etc., provided such features are not used for living purposes. Grantor will provide notice to Grantees as provided in Subparagraph D at or before the time of application for a building permit for any new or reconstructed residence and any new or reconstructed structures permitted by this paragraph;

(b) Gardening and landscaping incidental to residential uses;

(c) The installation, maintenance, repair, replacement, removal and relocation of utility facilities and services for the purpose of providing utility services to the Premises consistent with the purposes of the Conservation Restriction. As used herein, the term "utility facilities and services" shall include sanitary disposal serving any residential or agricultural use of the land consistent with the purposes of this Conservation Restriction and the digging or drilling of water wells and associated dedicated utilities, provided that such wells are for use of the extracted water solely on the Premises. Grantor will provide notice to Grantees as provided in Subparagraph D at or before the time of application for a building or other permit for any new or reconstructed structures permitted by this paragraph;

(d) Agricultural and Animal Husbandry Structures. With the prior written approval of Grantees, the construction, use, maintenance and repair of buildings, structures or facilities exclusively for use in support of farming, agriculture, animal husbandry, or horticulture, including barns, greenhouses, sheds and appurtenant structures such as utility poles, water lines, and dirt or gravel access roads and septic systems. Excepting greenhouses, the exterior of such structures shall be made of or resemble natural materials. No residential use of barns shall be permitted; and,

(e) Temporary Agricultural Structures. The placement and maintenance of temporary structures, including without limitation, temporary structures relating to livestock such as hayracks, shelters, watering troughs and the like.

2. Driveway. The construction, paving, maintenance, repair and use of one (1) driveway up to twelve (12) feet in width serving the structures and uses permitted in the Building Envelope.

3. Recreational Activities. The exercise and training of dogs, hiking, equestrian activities, sledding, skiing and other non-motorized, passive outdoor recreational activities that do not materially alter the landscape or degrade environmental quality.

4. **Trails.** The construction, maintenance, and marking of trails (including bridges and boardwalks) up to twelve (12) feet in width for pedestrian and equestrian use and for farm vehicles. Trails and related structures may be constructed or relocated by mutual agreement of Grantor and Grantees.

5. **Wood and Farm Roads; Driveways.** The maintenance of currently existing wood and farm roads located on the Premises, substantially in their present condition as described in the Baseline Report or as reasonably necessary for the uses hereinafter permitted.

6. **Emergency Egress.** Construction and maintenance of a gravel road no greater than the minimum width required by the Town of Wayland permitting authorities in substantially the location shown as “Emergency Egress Corridor” on the Conservation Restriction Plan, to provide only emergency and pedestrian egress from The Way to Forest Hill Road.

7. **Agricultural Activities.**

(a) Agricultural, horticultural and animal husbandry operations carried on with sound agricultural and livestock management practices, which promote environmentally sound agriculture, including without limitation the cultivation, improvement, mowing and grazing of existing fields, and the mowing and grazing of existing meadows. Such activities shall be in accordance with a farm conservation plan that is substantially similar to an NRCS Farm Conservation Plan and incorporates best management practices, and which must be completed within six months of recording of this Conservation Restriction and approved in writing by the Grantees;

(b) With prior written approval of Grantees and in accordance with an NRCS (or successor agency) Farm Conservation Plan developed prior to conducting such activities, the expansion of fields and meadows and the creation of new fields and meadows;

(c) The use of fertilizers, herbicides and pesticides in accordance with the manufacturers’ recommendations, with a preference for non-chemical, naturally sustainable and/or organic farming methods. Any agricultural chemicals used on the Premises shall be registered under Commonwealth of Massachusetts regulations and used in accordance and consistent with all pertinent federal, state, and local instructions, limitations, laws, zoning, rules, and regulations;

(d) The installation and use of irrigation equipment to service permitted agricultural activities on the Premises;

(e) The maintenance, repair and construction of gates and stone walls on the Premises, provided that prior written approval of Grantees is required for the construction of new stone walls and openings in stone walls in areas visible from Rice Road and Old Connecticut Path;

(f) The installation of sight pervious fencing, (including electrified fencing for the control of animals); and,

(g) Conducting of educational activities and programs related to the present or future agricultural uses of the Premises, such as programs designed to promote an appreciation and understanding of agriculture.

8. Forestry. In accordance with generally accepted forestry management practices, (i) selective pruning and cutting to prevent, control or remove hazards, disease, insect damage or fire or to preserve the present condition of the Premises, including vistas, wood and farm roads, driveways and trails or to improve sight lines at road intersections so as to promote vehicular traffic safety; (ii) selective harvesting of trees to provide construction materials or firewood for use on the Premises; (iii) conducting, or permitting others to conduct, sound silvicultural uses of the Premises, including commercially harvesting of forest products, and, when required by law, be carried on pursuant to a Forest Cutting Plan. Whenever required by law, commercial harvesting of forest products shall be carried on pursuant to a Forest Cutting Plan and, whenever a Forest Cutting Plan is filed, a Forest Stewardship Plan must be prepared for each ten (10) year period in which a Forest Cutting Plan is filed. Such plans shall be prepared by a licensed professional forester and approved by the Department of Conservation and Recreation acting by and through its State Forester (or any successor agency) and shall be designed to protect the purposes of this Conservation Restriction, including without limitation, scenic and wildlife habitat values. A copy of such Forest Stewardship Plan shall be submitted to Grantees when completed and a copy of any Forest Cutting Plan pursuant thereto shall be submitted to the Grantees at least thirty (30) days prior to any cutting taking place. Any removal of trees and shrubs in violation of the Forest Cutting Plan shall be remedied by the planting and maintenance of trees and shrubs of the size and type removed.

9. Excavation Activities. Excavation from the Premises of fieldstone, soil, gravel, or other mineral resources or natural deposits as may be incidental to the expansion or improvement of agricultural fields, the installation, maintenance or removal of underground drainage facilities and other underground facilities or structures permitted on the Premises by this Conservation Restriction, and in accordance with Subparagraph 7(b.) above, all such activities to be conducted in a manner which is both consistent with good drainage and soil conservation practices and consistent with other purposes of this Conservation Restriction, and all such excavated materials must remain on the Premises.

10. Composting and Brush Piles. The stockpiling and composting of organic material originating on or off the Premises in support of permitted activities on the Premises (but stumps, tree and brush limbs only if they originate on the Premises), in locations where the presence of such materials will not have a deleterious impact on the purposes of this Conservation Restriction, and in accordance with a farm conservation plan as described in Subparagraph 7(a) above.

11. Wells and Springs. The repair, construction, reconstruction and maintenance of drilled and driven wells, the tapping of springs, and the installation, repair and maintenance of associated water lines and water distribution and collection equipment, provided, however, that any withdrawal of water shall be solely for allowed uses on the Premises;

12. Temporary Access. With the prior written approval of Grantees, the construction and maintenance of temporary access roads and driveways to accommodate the development, if any, which may take place on Lot 1. The Grantor shall use their best efforts to design these access roads and driveways which minimize adverse impact on the agricultural preservation and conservation purposes of this Conservation Restriction. For purposes of this Conservation Restriction, however, it shall be considered unreasonable for Grantees to withhold its approval of temporary road, bridge, or driveway specifications which are required by applicable permitting authorities.

13. Septic Systems. With the prior written approval of Grantees, the construction, repair and maintenance of septic systems to serve the Building Envelope, provided that no practical alternative site exists within the Building Envelope, and provided further that such systems are located so as to minimize the negative impacts on the Conservation Values, and the site is restored to as near as possible its natural condition.

14. Utilities, Culverts and Drainage Ditches. Maintenance, repair, construction, expansion and replacement of underground utilities, ditches, culverts, and drainage structures for activities permitted on the Premises, all in a manner consistent with good drainage and soil conservation practices and consistent with other purposes of this Conservation Restriction;

15. Signs. The erection, maintenance, and replacement of signs with respect to hunting, trespass, trail access, identity and address of the occupants, sale of the property, the Grantees' interest in the property, and the protected agricultural and conservation values.

C. Additional Affirmative Covenants and Obligations

Under this Conservation Restriction, the Grantor shall maintain the open fields on the Premises, as documented in the Baseline Report, by periodic mowing, or other methods of woody vegetation and invasive species control, with the exception of any area created or maintained for habitat in consultation with the Grantees. Non-chemical, naturally sustainable and/or organic methods of vegetation control and removal are preferred. If Grantor does not maintain the Open Field Area, then this Conservation Restriction also grants to the Grantees the right, but not the obligation, to maintain said area, provided, however, Grantor is first notified in writing at least forty-five (45) days prior to the exercise of such right. Such notice shall comply with Section XV, Subparagraph H and shall detail the scope, nature, design, location and timetable of proposed activities.

D. Notice and Approval. Whenever notice to or approval by Grantees is required, Grantor shall notify Grantees in writing not less than forty-five (45) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantees to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantees' approval is required, Grantees shall grant or withhold approval in writing within forty-five (45) days of receipt of Grantor's request. Grantees' approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction.

In the event that the Grantees cannot agree on a unified response to the Grantor, the matter shall, within the 45 days required, be referred to an appropriate authority, mutually agreed upon for review. Grantees shall notify Grantor and be entitled to an additional fifteen (15) days for such a consultation. If these deliberations fail to yield agreement on a course of action, the Parties shall seek resolution through arbitration by an arbitrator mutually chosen by Grantees. The cost of such arbitration will be shared equally between the Grantees. The decision of the arbitrator shall be final and binding on the Parties. Failure of efforts to reach a unified position prior to arbitration shall not constitute a violation of this Conservation Restriction and shall not be construed as bad faith or contrary to the purposes of this Conservation Restriction.

Failure of Grantee to respond in writing within 45 days (or 60 days following referral of the matter to an appropriate authority), shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 45 days (or 60 days if applicable), in the request notice, the requested activity is not prohibited herein, and the activity will not materially impair the conservation values or purposes of this Conservation Restriction.

IV. LEGAL REMEDIES OF THE GRANTEES:

A. Legal and Injunctive Relief. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantees will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantees for the enforcement of this Conservation Restriction. Grantees agree to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor cease objectionable actions and Grantees determine there is no ongoing diminution of the conservation values of the Conservation Restriction.

The Grantor covenant and agree to reimburse the Grantees to the extent permitted by operation of law for all reasonable costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction or in taking

reasonable measures to remedy, abate, or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or is determined by a court of competent jurisdiction to have occurred. Prior to commencing any proceeding to enforce this Conservation Restriction or taking any action to remedy or abate any violation of this Conservation Restriction by Grantor, the Grantees shall, except as provided in the following sentence, give written notice to Grantor of the alleged violation and shall afford Grantor thirty (30) days or such longer period as is reasonable under the circumstances to cure such alleged violation.

In the event that Grantees are unable to give written notice to Grantor, or in the event that the violation is continuing and that its continuance will further adversely affect the conservation values of this Conservation Restriction, then Grantees shall have the right to take immediate action, including legal action, to remedy or abate the violation without the necessity of giving written notice to Grantor or affording Grantor an opportunity to cure the violation.

In the event of a dispute over the boundaries of the Conservation Restriction, the Grantor and Grantees shall share the expense of survey work, with 50% covered by the Grantor and 50% covered by the Grantees, necessary to determine the proper location of boundaries, including the expense of placing permanent boundary markers delineating the boundaries of this Conservation Restriction.

- B. Joint and Several Enforcement Responsibility.** The Grantees share joint and several enforcement responsibility of the Conservation Restriction, including obtaining cease and desist orders, temporary restraining orders, injunctions, and judgments. In the event of an apparent violation, either Grantee may act independently to obtain cease and desist orders or temporary restraining orders. If a Grantee is unable to enforce the terms of this Conservation Restriction, said Grantee shall assign its right of enforcement to the other Grantee who may then proceed as the sole enforcer of the Conservation Restriction.

Provided that the violation is not continuing and will not further adversely affect the Conservation Values of this Conservation Restriction, in the event that the Grantees cannot agree on a unified course of action, the matter shall be immediately referred to an authority mutually agreed upon by the Grantees for review. If deliberations between the Grantees on the initial and any revised proposals fail to yield agreement on a course of action, the Grantees shall seek resolution through arbitration by an arbitrator mutually chosen by Grantees. The cost of such arbitration will be shared equally between the Grantees. The decision of the arbitrator shall be final and binding on the Grantees. Failure of efforts to reach a unified position prior to arbitration shall not constitute a violation of this Conservation Restriction and shall not be construed as bad faith or contrary to the purposes of this Conservation Restriction.

- C. Non-Waiver.** Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantees. Any election by the Grantees as to the manner and

timing of their right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

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

E. Acts Beyond the Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle the Grantees to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, non-human caused change (e.g., changes caused by beaver or deer) or natural processes, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. The parties to this Conservation Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it is desirable and feasible to restore the Premises, the parties will cooperate in attempting to do so.

V. ACCESS:

Grantor grants to the Grantees, or their duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantees, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof.

VI. EXTINGUISHMENT:

A. Grantees' Receipt of Property and Development Rights. The Grantor and the Grantees agree that the grant of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantees, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of extinguishment, bears to the value of the Premises at that time. Such proportionate value of the Grantees' property rights shall remain constant.

B. Right of Grantees to Recover Proportional Value at Disposition. If circumstances arise in the future which render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs (or successor official). If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then the Grantees,

on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph D below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements.

C. Grantor/Grantees Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantees shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantees shall first be reimbursed to them out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantees in accordance with Paragraph D below, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken.

D. Apportionment between Grantees. As between the Grantees, Sudbury Valley Trustees, Inc., and the Town of Wayland, the Grantees agree that all proceeds allocated to the Grantees collectively under this Section VII shall be apportioned as follows as between the Grantees individually:

- a. Sudbury Valley Trustees, Inc.: twenty percent (20%) of the allocation
- b. Town of Wayland: eighty percent (80%) of the allocation

This apportionment of allocations to the Grantees shall remain constant throughout the term of this Conservation Restriction.

E. Continuing Trust of Grantees' Share of Proceeds of Conservation Restriction Disposition. The Grantees shall use their share of the proceeds in a manner consistent with the purposes of this Conservation Restriction.

VII. ASSIGNABILITY:

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

B. Execution of Instruments. The Grantees are authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor on behalf of itself and their successors and assigns appoint the Grantees their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree to execute any such instruments upon request.

- C. Running of the Benefit.** The benefits of this Conservation Restriction shall run to the Grantees, shall be in gross and shall not be assignable by the Grantees, except in the following instances:

As a condition of any assignment, the Grantees shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment shall comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS:

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantees of the transfer of any interest at least twenty (20) days prior to the date of such transfer. Failure of the Grantor to do either shall not impair the validity of this Conservation Restriction or limit its enforceability in any way.

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

IX. NON MERGER:

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantees agree that they will not take, title to any part of the Premises without having first assigned this Conservation Restriction to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner. No deed shall be effective until this Conservation Restriction has been assigned to a non-fee owner or other action taken to avoid a merger and preserve the terms and enforceability of this Conservation Restriction by a non-fee owner. It is the intent of the parties that the Premises will be subject to the terms of this Conservation Restriction in perpetuity, notwithstanding any merger.

X. ESTOPPEL CERTIFICATES:

Upon request by the Grantor, the Grantees shall within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

XI. AMENDMENT:

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantees may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantees under any applicable laws, including Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this Conservation Restriction shall occur only in exceptional circumstances. The Grantees will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs or successor official, and, if applicable, shall comply with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South District Registry of Deeds.

XII. EFFECTIVE DATE:

This Conservation Restriction shall be effective when the Grantor and the Grantees have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded, or if registered land, it has been registered.

XIII. RECORDING:

The Grantor shall record this instrument in a timely fashion in the Middlesex South District Registry of Deeds.

XIV. TERMINATION OF RIGHTS AND OBLIGATIONS:

Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding any interest in the Premises terminate upon and to the extent of such party's transfer of its interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this Conservation Restriction, shall survive the transfer.

XV. MISCELLANEOUS:

- A. Controlling Law.** The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

- B. Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purposes of this Conservation Restriction and the policy and purpose of M.G.L. Chapter 184, Sections 31-33.
- C. Severability.** If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
- D. Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.
- E. Joint Obligation.** The obligations imposed by this Conservation Restriction upon the parties that together comprise "Grantor" shall be joint and several.
- F. Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- G. Pre-existing Rights of the Public.** Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- H. Compliance with Applicable Law.** The exercise of any right reserved under this Conservation Restriction by the Grantor or its successors and assigns shall be in compliance with the applicable provisions of the state Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40, as amended) and all other applicable federal, state, and local law. The approval of this Conservation Restriction by the Secretary does not imply approval for any activities requiring a permit.
- I. Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally with a receipt (or an affidavit of delivery if the addressee refuses to provide a receipt or is not present) or sent by first class mail, postage prepaid, or recognized overnight courier service, delivery confirmation requested; addressed as follows:

To Grantor: Mainstone Farm Land Trust
Margery M. Hamlen and Michael E Mooney, Trustees

c/o Nutter McClennen & Fish LLP
Seaport West
155 Seaport Boulevard
Boston, MA 02110

To Grantees: Sudbury Valley Trustees, Inc.
18 Wolbach Road
Sudbury, Ma 01776
ATTN: Director of Stewardship

Town of Wayland
41 Cochituate Road
Wayland, MA 01778
ATTN: Conservation Administrator

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

J. Homestead. The Grantor hereby agrees to waive and subordinate any and all M.G.L. Chapter 188 Homestead rights they may have in favor of this Conservation Restriction and swear or affirm under pains and penalties of perjury that there is no one else entitled to the benefits of M.G.L. c. 188 who has not signed to waive and subordinate their benefits with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agree to execute, deliver and/or record any and all instruments necessary to effectuate such waiver and subordination. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to M.G.L. Chapter 188, including §10(e).

K. Subordination of Liens, etc. The Grantor agrees to subordinate all liens, mortgages, construction loans and home equity lines of credit to this Conservation Restriction.

L. Deferred Like-Kind Exchange. Grantees understand and acknowledge that Grantor may wish to structure this transaction as a tax deferred exchange of like-kind property within the meaning of section 1031 of the Internal Revenue Code. Grantees agree to reasonably cooperate with Grantor to effect such an exchange; provided, however, that Grantees shall not be required to acquire or take title to any exchange property, incur any expense or liability whatsoever in connection with the exchange, including, without limitation, any obligation for the payment of any escrow, title, brokerage or other costs incurred with respect to the exchange, and no such exchange shall delay the grant of this Conservation Restriction. In addition, the Grantor shall indemnify and hold Grantees harmless from any and all costs, expense or liability incurred solely as a result of Grantees accommodating such tax deferred exchange.

There are attached hereto or recorded simultaneously herewith and incorporated herein by reference the following Exhibits:

Exhibits:

A. Conservation Restriction Plan

Signature Pages:

Grantors: Margery M. Hamlen and Michael Mooney, Trustees of Mainstone Farm Land Trust

Grantees: Town of Wayland, Sudbury Valley Trustees, Inc.

Approval by the Wayland Selectboard

Approval by the Secretary of the Office of Energy and Environmental Affairs

[Signatures and approvals appear on the following pages.]

Executed under seal this ____ day of _____, 2017.

By: _____
Margery M. Hamlen
Trustee as aforesaid and not individually

By: _____
Michael E. Mooney
Trustee as aforesaid and not individually

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this ____ day of _____, 2017, before me, the undersigned Notary Public, personally appeared the above-named Margery M. Hamlen, proved to me by satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other state or federal governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

On this ____ day of _____, 2017, before me, the undersigned Notary Public, personally appeared the above-named Michael E. Mooney, proved to me by satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other state or federal

governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

ACCEPTANCE OF GRANT

Sudbury Valley Trustees, Inc. accepts the above Conservation Restriction from The Mainstone Farm Land Trust.

By: _____
Its Executive Director

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this _____ day of _____, 2017 before me, the undersigned Notary Public, personally appeared the above-named Lisa Vernegaard, Executive Director of Sudbury Valley Trustees, Inc., proved to me by satisfactory evidence of identification, being (check whichever applies):
☐ driver's license or other state or federal governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

ACCEPTANCE OF CONSERVATION COMMISSION

The above Conservation Restriction from the Mainstone Farm Land Trust was accepted by the Conservation Commission of the Town of Wayland _____
this _____ day of _____, 2017.

Middlesex, ss.

On this ____ day of _____ 2017, before me, the undersigned notary public,
personally appeared _____,

_____,
_____, and _____, proved to
me through satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other state or federal governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatories, or ☐ my own personal knowledge of the identity of the signatory, to be the persons whose names are signed above, and acknowledged the foregoing to be signed by them voluntarily for its stated purpose as members of the Conservation Commission of the Town of Wayland

Notary Public
My Commission Expires:

APPROVAL BY BOARD OF SELECTMEN

We, the undersigned, being a majority of the Board of Selectmen of the Town of Wayland, hereby certify that at a public meeting duly held on _____, 2017, the Board of Selectmen voted to approve the foregoing grant of Conservation Restriction from the Mainstone Farm Land Trust to Sudbury Valley Trustees and the Town of Wayland, pursuant to Massachusetts General Laws Chapter 184, Section 32 and Chapter 40, Section 8C.

Board of Selectmen of the Town of Wayland

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this ____ day of _____, 2017, before me, the undersigned Notary Public, personally appeared the above-named _____, _____, _____, _____, _____, _____,

Members of the Town of Wayland Board of Selectmen, proved to me by satisfactory evidence of identification, being (check whichever applies): ☐ driver's license(s) or other state or federal governmental document(s) bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatories, or ☐ my own personal knowledge of the identity of the signatories, to be the people whose names are signed above, and acknowledged the foregoing to be signed by them voluntarily for its stated purpose, as members of the Town of Wayland Board of Selectmen.

Notary Public:
My Commission Expires:

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS,
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to Sudbury Valley Trustees, Inc. and the Town of Wayland has been approved in the public interest pursuant to M.G.L. Chapter 184, Sections 31-33.

Secretary of Energy and Environmental Affairs

Date

COMMONWEALTH OF MASSACHUSETTS

Suffolk , ss

On this ____ day of _____, 2017 before me, the undersigned Notary Public, personally appeared the above-named _____, Secretary of the Massachusetts Executive Office of Energy and Environmental Affairs, proved to me by satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other state or federal governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him/her voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

Conservation Restriction Plan

