NOTE: THIS IS A TRANSFER OF TITLE TO THE UNITED STATES AND TO AN AGENCY OR INSTRUMENTALITY OF THE STATE OF NEW HAMPSHIRE PURSUANT TO NEW HAMPSHIRE RSA 78-B: 2(I) & (II) AND IS THEREFORE EXEMPT FROM THE NEW HAMPSHIRE REAL ESTATE TRANSFER TAX.

CONSERVATION EASEMENT DEED

Newfields Piscassic Greenway, Piscassic River, Newfields and Newmarket, New Hampshire

2006 APR 28 PM 1:45

ROCKINGHAM COUNTY REGISTRY OF DEEDS

025321

Joseph Falzone, Trustee of HALLS MILL ROAD REALTY TRUST, under a Declaration of Trust dated June 28, 2000 recorded at the Rockingham County Registry of Deeds at Book 3485, page 960, and WASHINGTON NORTH REALTY CORPORATION, with a mailing address of 123 Water Street, Unit 4SE, Exeter, County of Rockingham, State of New Hampshire, 03833, and DOROTHY B. HAUGHTON, a single person, with a mailing address of 298 Piscassic Road, P.O. Box 157, Newfields, NH 03856 (hereinafter collectively referred to as "**Grantor**"), which word includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's legal representatives, executors, administrators, devises, successors and assigns),

for consideration paid, hereby grants in perpetuity to

the **Town of Newfields**, a municipal corporation existing under the laws of New Hampshire, a "qualified organization" within meaning of Section 170 (b)(1) of Internal Revenue Service Code of 1986, as amended, and a governmental body eligible to hold a "conservation easement" within meaning of NH RSA 477:45-47, with a mailing address of 65 Main Street, P.O. Box 300, Newfields, County of Rockingham, and State of New Hampshire, (hereinafter referred to as "**Easement Holder**" which word includes the plural and shall, unless the context clearly indicates otherwise, include the Easement Holder's legal representatives, designees, successors and assigns),

the following described Conservation Easement (hereinafter referred to as the "**Easement**") on that certain parcel of land (herein referred to as the "**Property**") being riparian forest, forestland, forested uplands, early successional, riverine and wetlands with improvements thereon situated on or near the northwest portion of Halls Mill Road and the Manchester-Portsmouth Rail Trail, along the Piscassic River and south of Schanda Drive in the Towns of Newfields and Newmarket, County of Rockingham, State of New Hampshire, and shown on the survey plan titled "CONSERVATION EASEMENT PLAN OF THE PISCASSIC GREENWAY PROPERTY FOR THE TRUST FOR PUBLIC LAND, (OWNERS OF RECORD) DOROTHY B. HAUGHTON 1994 REV. TRUST NEWFIELDS, TAX MAP 211, LOT 2, DOROTHY B. HAUGHTON, NEWFIELDS, TAX MAP 212, LOT 5, HALLS MILL ROAD REALTY TRUST, NEWFIELDS TAX MAP 212, LOTS 4 & 6, MAP 208, LOT 1, & NEWMARKET TAX MAP R-7, LOT 31, WASHINGTON NORTH REALTY CORP. NEWMARKET TAX MAP R-7, LOT 14E HALLS MILL ROAD & PISCASSIC ROAD (ROUTE 87), NEWFIELDS

& NEWMARKET, NH" DATED MARCH 22, 2006 AND REVISED APRIL 11, 2006, BY DOUCET SURVEY, INC., consisting of six (6) pages and recorded at the Rockingham County Registry of Deeds as Plan D-33692, and more particularly described in *Appendix A* attached hereto.

LESS: (i) that portion of the Property shown as "Exclusion Area No Conservation Easement" containing 1.828 acres on Sheet 1 of 6 of said Plan;

(ii) that portion of the Property shown as "Area 'A'" containing 1.539 acres on Sheet 1 of 6 of said Plan;

(iii) that portion of the Property shown as "Proposed Map 211, Lot 1" containing 9.293 acres on Sheet 1 of 6 of said Plan;

(iv) that portion of the Property shown as "Conservation Open Space Easement" containing 11.060 acres on Sheet 1 of 6 of said Plan; and

(v) that portion of the Property shown as "Tax Map 212, Lot 4-1" containing 1.476 acres on Sheet 3 of 6 of said Plan;

The above described property consists of 316.441 +/- acres.

The Easement will be conveyed together with and including a non exclusive access easement to allow public access, consistent with the restrictions contained herein over

(i) that "50' Wide Access Easement" shown on Sheet 5 of 6 of said Plan which provides access from Schanda Drive to the Property, being a portion of Book 3586, Page 2079, more particularly described in *Appendix B*; and

(ii) that "50' Wide Access Easement" shown on Sheet 1 of 6 of said Plan, running north of the Rail Road R.O.W. to the area marked "Open Space 2", being a portion of Book 4467, Page 2669, more particularly described in *Appendix C*;

The above access rights of way shall hereinafter be collectively referred to as "Access Right of Way."

And a non exclusive stewardship access easement, which shall allow the Easement Holder, but not the general public the right to enter onto the Property for the purposes of maintaining and preserving the Property and to accomplish those stewardship rights outlined in the Easement and for public safety purposes over

(i) that "50' Wide Stewardship Easement" shown on Sheet 1 of 6 of said Plan which provides access from Route 87 to the Rail Road R.O.W as shown on said Plan, and more particularly described in *Appendix D*;

The above access right of way shall hereinafter be referred to as "Stewardship Access".

moose. Portions of the wetland complex are adjacent to the Piscassic River floodplain, which function to reduce velocities and mitigate erosion to downstream areas during large storm events.

B. Wildlife Habitat. The conservation of the 316 +/- acres of riverine, wetlands and forestland of which the land area subject to the Easement granted hereby consists, for the preservation and conservation of wildlife habitat on the Property and for the preservation and conservation of wildlife habitat and species of conservation concern as identified in the State Wildlife Action Plan; and

C. Biodiversity. The protection of the biological integrity of the unusual natural habitat, biological communities and/or ecosystem such as the Low Perennial Riparian System as characterized by the New Hampshire Natural Heritage Inventory Program and Climbing Hempweed, Golden-winged Warbler, Blanding's Turtle and Spotted Turtles, a state recognized rare species; and Giant Bur-reed, a state recognized threatened species; and Northern Harrier, a state recognized Endangered species; and

D. Conservation. The assurance that the Property will be retained forever as important shoreline on the Piscassic River and healthy riparian forest, forested uplands, riverine and wetlands and wildlife habitat, and the prevention of any use of the Property that will significantly impair or interfere with the conservation attributes of the Property; and

E. Scenic Amenity. The assurance that the Property will be retained forever in a scenic condition, and contribute to the preservation of open spaces for the scenic enjoyment of and the low-impact, transitory, non-commercial outdoor recreational use by the general public; and

F. Public Recreation. The protection of the land and of the Piscassic River, to which the Property provides access and on which it fronts, subject to the Easement granted hereby, for limited low impact, transitory, non-wheeled, non-commercial outdoor recreation compatible with the conservation purposes above by the general public, and for the education of the general public.

And with New Hampshire RSA chapter 79-A which states, in part:

"It is hereby declared to be in the public interest to encourage the preservation of open spaces in the state by providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, by maintaining the character of the state's landscape, and by conserving the land, water, forest, and wildlife resources."

And with NH RSA 485-C:1, the "Groundwater Protection Act", which states, in part:

"The natural quality of the groundwater resource shall be preserved and protected in order that groundwater may be used for drinking water supply. Ambient groundwater quality standards shall meet drinking water standards...;" and

This purpose is also consistent with NH RSA 481:1-C, which states, in part:

"an adequate supply of water is indispensable to the health, welfare, and safety of the people of the State, and is essential to the ecological balance of the natural environment of the State and that the water resources of the State are subject to an ever-increasing demand for new and competing uses; that, therefore, the general court declares and determines that the waters of New Hampshire whether occurring above or below ground constitute a precious, finite and invaluable public resource which should be protected, conserved, and managed in the interest of present and future generations...,"

These significant conservation values are set forth in detail in baseline documentation (hereinafter "**Baseline Report**") to be submitted by the Grantor and/or the Subsequent Fee Owner to the Easement Holder, and placed on file with NOAA, The New Hampshire Department of Environmental Services Drinking Water Protection Program, and The Town of Newfields, prior to closing.

These purposes are consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

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

2. **USE LIMITATIONS** (Subject to the reserved rights specified in Section 5 below)

A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any residential development activities, nor industrial or commercial activities.

B. In order to protect riparian areas and water quality, there shall be no use of fertilizers, introduction of non-native plants or animals, spraying of biocides, or significant disturbance of soils within the Property. Notwithstanding the foregoing, the Grantor shall have the right to remove, and consent to the removal of, invasive and exotic species (including the spraying of biocides) within the Property.

C. The Property shall not be subdivided, and none of the individual tracts, which together comprise the Property, shall be conveyed separately from one another. The Grantor further covenants and agrees not to undertake any action that would have the effect of subdividing all or any part of the Property through the allocation of property rights among partners, shareholders or members of any successor entity, the creation of a horizontal property regime, leasing or any other means except as specifically allowed herein.

D. Conveyance of the Property encumbered by this Easement shall require prior written consent by the Easement Holder, which shall not be unreasonably withheld and may only be conveyed to a qualified conservation agency or conservation organization. The purpose of this Section is to prevent the Grantor from subverting the purposes of this Easement. The Easement Holder shall have the First-Right-of Refusal to acquire the fee interest of the Property from the Grantor in accordance with Section 9A, but

only after first transferring its Easement interests to a separate and qualified conservation agency or conservation organization.

E. No buildings, structures, improvements, temporary or otherwise, or impervious surfaces shall be constructed, placed, or introduced onto the Property, except for structures and improvements, including but not limited to: parking areas, raised platforms, and walkways, which are:

i. preexisting at the time of the grant of this Easement, and as identified in the Baseline Report, if any;

ii. necessary in the accomplishment of riparian, conservation, habitat management, or low-impact, transitory, non-commercial outdoor recreational uses of the Property; and

iii. consistent with the Management and Stewardship Plan; and

iv. not detrimental to the Purposes of this Easement.

All permits necessary to comply with the Town Zoning Ordinance and Building Codes shall be secured prior to such construction.

F. No removal, filling, or other substantial disturbances of soil surface, nor any changes in topography, surface or sub-surface water systems, wetlands, or natural habitat which are inconsistent with the responsible use of the Property by the Grantor and the intent of this Easement shall be allowed unless and so long as such activities:

i. are commonly necessary in the accomplishment of the riparian, conservation, habitat management, or low-impact, transitory, non-commercial outdoor recreational uses of the Property; and

ii. do not harm state or federally recognized rare, threatened or endangered species, 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

iii. are not detrimental to the Purposes of this Easement and are consistent with the Management and Stewardship Plan; and

iv. are only initiated and conducted after all necessary federal, state and local permits and approvals have been duly secured.

G. No outdoor advertising structures such as signs or billboards shall be displayed on the Property except as:

i. desirable or necessary in the accomplishment of the conservation or limited low impact, transitory, non-wheeled, non-commercial outdoor recreational uses of the Property or public safety notices,

ii. as requested in recognition of federal funding associated with securing the Easement on the Property, and/or

iii. as requested by DES and/or the Trust For Public Land (hereinafter sometimes referred to as "**TPL**") in connection with their involvement with securing this Easement on the Property.

iv. All such signs shall not be detrimental to the Purposes of this Easement, and shall be less than 20 square feet in size, shall comply with local ordinances and shall not be artificially illuminated.

H. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to the provisions of paragraphs B, D, E, or F above. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property.

I. There shall be no dumping, storage, injection, burning or burial of man-made materials, building demolition, construction debris, trash, tires, vehicle bodies or parts or similar materials, or materials known to be environmentally hazardous, including the storage of snow from municipal plowing, except for snow plowed as a direct result of municipal plowing of an adjacent road.

J. Except as provided in Section 6D for the purposes of developing a municipal water supply, no rights-of-way, easements of ingress or egress, driveways, roads, or utility lines shall be constructed, developed or maintained into, on, over, under, or across the Property, without the prior written approval of the Easement Holder and NOAA, except those existing at the date hereof as shown in the Baseline Report and those specifically permitted under this Easement.

K. There shall be no posting to prohibit the public from accessing and using the Property for limited low impact, transitory, non-wheeled, non-commercial outdoor recreational purposes, as outlined in detail in Section 4A below, and except as provided for in Section 5B below.

L. The Grantor shall not grant permission for the use of wheeled motorized vehicles on the Property, except as necessary for managing the Property.

M. No use shall be made of the Property and no activity thereon shall be permitted that, in the reasonable opinion of the Easement Holder may lead to harm or is inconsistent with the Purposes of this Easement.

N. No use shall be made of the property which will in any way violate, or breach any rights of the United States of America, its subsidiaries or successors in interest, or which causes the said USA, its subsidiaries or successors in interest, to commence or prosecute its contingent rights as set forth in this Agreement.

3. STEWARDSHIP PLANNING AND MANAGEMENT ACTIVITIES

A. The Grantor shall manage the property in accordance with a written Management and Stewardship Plan (the "Plan") consistent with this Easement.

B. The Plan shall specifically address at least the following elements:
   i. The short- and long-term protection of those values for which this easement is granted, as described in Section 1 above;
   ii. A statement of landowner management objectives consistent with the Purposes of this Easement;
   iii. Property specific management goals and objectives;
   iv. A boundary map with access roads and natural cover types;
   v. A description of the natural features of the Property, including land cover, topography, soils, geology, wetlands, streams and ponds, and wildlife habitat features;
   vi. Identification of plant and wildlife species and natural communities of conservation concern, and how management shall enhance, or avoid detrimental impacts to, said plants, wildlife and natural communities;
   vii. Public access locations, including any proposed limited parking;
   viii. Allowed educational and recreational uses, including proposed locations of trails;
   ix. Recommended management prescriptions; and
   x. Recommended schedule for implementation of management prescriptions, including a schedule for boundary, road and trail maintenance.

C. The Plan shall have been prepared not more than ten years prior to the date that any significant management activity, such as wildlife habitat management or trail creation, is expected to commence. Plans prepared more than ten (10) years prior to commencement of such significant management activity shall have been reviewed and updated by a licensed professional forester, certified wildlife biologist or other person qualified in accordance with Section 3C herein at least sixty (60) days prior to such commencement.

D. The Grantor shall create a five (5) member Management Advisory Committee ("Committee"), with two (2) representatives of the Easement Holder to be appointed by the Easement Holder and two (2) representatives of the Grantor to be appointed by the Grantor, and one (1) representative from the State of New Hampshire Fish and Game Department.. The Committee will advise the Grantor on the creation and drafting of the Plan for the Property and advise the Grantor on the subsequent management of the Property.

E. In consultation with the Committee, the Grantor may choose to hire and shall bear the cost of a licensed professional forester, certified wildlife biologist or other qualified person to prepare the Plan. Any person other than a licensed professional forester or certified wildlife biologist shall only be considered qualified under this Easement if approved in advance and in writing by the Easement Holder.

F. Said Plan shall be approved by the Easement Holder, as outlined below.
   i. The Easement Holder has the initial responsibility for the review and approval of the Plan.

   ii. The Easement Holder designates that subsequent Plans shall be reviewed and approved by the Town of Newfields Conservation Commission or a third party (collectively referred to herein as **"Representative"**), subject to subsection iii below.

   iii. The Easement Holder may designate a third party representative to represent the Easement Holder in the review and approval of the Plan. The third party representative shall be a licensed professional forester, certified wildlife biologist or other qualified person. Any person or entity other than the Newfields Conservation Commission, a licensed professional forester or certified wildlife biologist shall only be considered qualified under this Easement if approved in advance and in writing by the Grantor.

   iv. The Representative shall provide its written comments within sixty (60) days of receipt of the Plan.

   v. After considering said Representative's input on the Plan, Grantor shall submit a final draft Plan to the Representative for approval.

   vi. Within thirty (30) days after Representative's receipt of the Plan, the Representative shall approve or disapprove the same in context with its compliance with this Easement, and so inform the Grantor in writing. Any disapproval shall specify in detail the reasons therefore. The Representative's failure to so approve or disapprove within said period shall constitute approval. The Representative's approval shall not be unreasonably withheld.

G. Management activities on the Property shall be supervised by a licensed professional forester, a certified wildlife biologist or by other person qualified in accordance with Section 3C hereof.

H. All management activities on the Property shall be carried out in accordance with all applicable local, state, federal, and other governmental laws and regulations, and 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, 1996), 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 as may be mutually agreed to by the Grantor and the Easement Holder.

I. In areas used by, or visible to, the general public, management activities involving timber harvesting on the Property shall be carried out, to the extent reasonably practicable, in accordance with the recommendations contained in "A Guide to

Logging Aesthetics: Practical Tips for Loggers, Foresters, and Landowners" (Geoffrey Jones, 1993) or similar successor publications.

J. The initial Management and Stewardship Plan shall be completed and approved within 2 (two) years of the recording of the Easement.

K. Grantor shall notify the Easement Holder at least fifteen (15) days prior to undertaking any significant management activities.

L. Grantor shall be responsible for payment of all costs related to the preparation, and maintenance of the plan and baseline report, and for all costs associated with the management of the Property. Nothing herein shall obligate the Grantor to pay any costs incurred by the Easement Holder relating to the review of the Management and Stewardship Plans.

4 AFFIRMATIVE OBLIGATION FOR PUBLIC ACCESS

Subject to Grantor's reserved rights set forth in Section 5 below, public access shall be allowed as follows:

A There is hereby conveyed, and the Grantor shall permit, public pedestrian access to, on and across the Property for limited low impact, transitory, non-wheeled, non-commercial outdoor recreational purposes such as hunting, trapping, fishing, hiking, cross country skiing, snow-shoeing, and bird watching, but not camping or equestrian uses. Further, the Grantor shall permit snowmobiling on the existing designated "Snowmobile Trail Corridor" and "Snowmobile Trail Connector", the locations of which are identified in the Baseline Report on file with the Grantor, the National Oceanic and Atmospheric Administration, and the New Hampshire Department of Environmental Services Drinking Water Protection Program.

5. RESERVED RIGHTS

Notwithstanding the foregoing and subject to Section 7 herein, Grantor shall retain the right to make the following uses of the Property.

A The Grantor shall have the right to use and manage the Property for any and all uses consistent with the Purposes and use limitations herein, including, but not limited to the right to clear, construct and maintain trails for walking, cross country skiing and other limited low impact, transitory, non-wheeled, non-commercial outdoor recreational activities within and across the Property, provided said trails are consistent with and not detrimental to the Purposes of this Easement.

i) The creation of new trails or the relocation of existing trails shall be provided for in the Management and Stewardship Plan. The Grantor shall notify the Easement Holder as per Section 3K above. Additionally, all trails shall conform to best practices recommended by the Appalachian Mountain Club or similar

trail-maintaining organization. (See Appalachian Mountain Club, The Complete Guide to Trail Building and Maintenance).

ii) As specified in Section 4A, the Grantor shall be allowed to maintain the "Snowmobile Trail Corridor" and the "Snowmobile Trail Connector" designated and depicted on the Baseline Report (collectively referred to hereinafter as "Trail") and to permit the public to snowmobile on the Property solely on the Trail.

iii) The existing, designated "Snowmobile Connector Trail" runs through extensive wetlands and is not an appropriate location for a snowmobile or pedestrian trail. Therefore, the Easement Holder and Grantor agree that the "Snowmobile Connector Trail" shall be relocated from its current location to continue to provide access from Halls Mill Road to the "Snowmobile Corridor Trail", consistent with the terms of this Easement. The new location of the "Snowmobile Connector Trail" shall be identified in the Stewardship and Management Plan, and is subject to review and approval by the Easement Holder and NOAA.

iv) With the permission of the Easement Holder and NOAA, the Grantor may relocate the Trail, in part or in whole, solely to protect the Purposes of this Easement. This provision is not intended to provide access for wheeled motorized vehicles, except for otherwise provided in this Easement.

v) The Trail shall be adequately marked by the Grantor in accordance with the "Trail Signing Handbook: Guidelines for Signing Snowmobile Trails" (State of New Hampshire, Department of Resources and Economic Development, Division of Parks and Recreation, Trails Bureau), or such successor standard, to indicate location of the Trail, to restrict snowmobile use to within the designated Trail, and to restrict access by vehicles other than snowmobiles. All spur, side or connecting trails will be posted to indicate snowmobile access and use thereon is prohibited.

B The Grantor may temporarily close portions of the Property to public use or access only if:

i. it deems such posting to be necessary to protect the Purposes of this Easement set forth in Section 1 above; and/or
ii. during active wildlife habitat management activities or other management activities recommended within the Stewardship and Management Plan; and/or
iii. Property conditions are unsafe for the visiting public.

Should the Grantor determine that a portion of the Property must be closed for a period of time greater than one (1) year in order to ensure the Purposes of this Easement are met, the Grantor shall request the approval of the Easement Holder. The Grantor shall provide said request in writing and shall include an explanation for

the request. The Easement Holder shall approve, approve with conditions, or deny said request within sixty (60) days of receipt. The Easement Holder's approval shall not be unreasonably withheld. In each case of closing the Property to public use or access, the Grantor shall notify the Easement Holder within five (5) days of such action.

C. Subject to the following conditions, the Grantor reserves the right to cut trees and vegetation to maintain the health of the forestland, for wildlife habitat management and improvement, and for public safety purposes:

i. Such activities shall comply with the recommended actions of the Stewardship and Management Plan in Section 3 herein and the Purposes of this Easement.

ii. Such activities shall not damage or destroy known or documented occurrences of rare species or exemplary natural communities.

iii. The Grantor may sell forest products removed during such activities but shall use any revenue exclusively for the management, stewardship, and protection of the Property.

6. AFFIRMATIVE RIGHTS OF EASEMENT HOLDER

A. The Easement Holder shall have reasonable access to all portions of the Property for such inspection as is necessary to determine compliance with, and to enforce, this Easement, to exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

B. The Easement Holder shall have the right to place signs and/or tags on the Property boundaries and at trail entrances for the purpose of marking boundaries and identifying it as conservation easement land protected by the Easement Holder.

C. The Easement Holder shall have the right to appoint two (2) representatives to the five (5) member Management Advisory Committee as more particularly described herein, charged with advising the Grantor on the creation, drafting, and implementation of the Stewardship and Management Plan for the Property and the subsequent management of the Property.

D. Subject to written approval from the Grantor, which shall not be unreasonably withheld, including the Grantor's designee and NOAA, the Easement Holder reserves the right to withdraw groundwater on a sustainable yield basis and to remove said groundwater from the Property only for the purpose of providing a public water supply system, as defined by NH RSA 485:1-a, XV, as it may be amended from time to time. Withdrawal or removal of groundwater for private, commercial purposes is expressly prohibited. For the purpose hereof, permitted activities in conjunction with said withdrawal and/or removal shall consist of the installation, maintenance, monitoring, and replacement of

temporary wells for exploratory and/or testing purposes, long-term water production wells, monitoring wells, pumping stations, and ancillary improvements such as but not limited to permeable-surface roads, signs, electric utilities necessary to power the pumps, etc., pipes, conduits, and security facilities, but only if they are required to be located on the Property. To the extent that said facilities and improvements must be located on the Property, i.e., the wells, utilities, pumps, and pipes and conduits from the well site through the Property to an area not subject to the easement, those facilities shall, to the maximum extent possible, be located underground or partially below ground in order to provide the minimum disturbance to one's view of the landscape and shall to the maximum extent possible share the same corridor as the 'Woods Road' as shown on the Plan recorded herewith. Other major facilities including, but not limited to, storage tanks, shipping facilities, major pumping facilities, monitoring facilities, office and laboratory facilities for employees, shall not be located within the Property. This provision is an exception to Sections 2.D, 2.E, 2F, 2.G, 2.I, 2.J, and 2.K.

E. The Easement Holder may assign its rights to withdraw ground water from the Property, as provided within Section 6D, to the Newfields Water and Sewer District, its successors or assigns, or to a private water supply company, provided that the water withdrawal continues to serve a public water supply system, as defined by NH RSA 485:1-a, XV, as it may be amended from time to time.

7. REQUESTS FOR APPROVAL

A. Where this Easement requires approvals from the Easement Holder, and/or the USA, or successor agency(ies) (for purposes of this Section 7, hereinafter referred to individually or collectively, as may be appropriate, as 'Approving Authority'), the Grantor shall submit to the Approving Authority a written request for said approval, along with information including, but not limited to, documents, maps, plans, specifications, and designs where appropriate, sufficient to identify the proposed activity with reasonable specificity. The Grantor shall not undertake any such activity until approved in writing by the Approving Authority, or its/their authorized representative(s).

B. The Grantor shall comply with all applicable rules, regulations, ordinances, or statutes of local, state, or federal governmental units or agencies (for purposes of this Section 7, hereinafter referred to as 'Agencies'). Where said rules, regulations, ordinances, or statutes require approval of said Agencies for proposed activities on the Property, the Grantor shall submit the necessary information, such as documents, maps, plans, specifications, and designs where appropriate, to said Agencies for review and approval. The Grantor shall not undertake any such activity until approved by the appropriate Agencies.

C. The Approving Authority reserves the right to consult with governmental agencies, non-profit conservation or preservation organizations, and/or other consultants or advisors concerning the compliance of any such activity with the terms of this Easement.

8. EASEMENT STEWARDSHIP RESPONSIBILITIES

To facilitate the fulfillment of the stewardship responsibilities under this Easement, the Grantor and Easement Holder shall be responsible for the following (which shall include, but not be limited to):

A. The Grantor shall maintain the original Baseline Report and any additions or amendments to the baseline information on the Property in accordance with applicable policies and guidelines, such as the Standards and Practices of the Land Trust Alliance; and

B. The Grantor shall submit an annual report to the Easement Holder or its designee on the status and stewardship of the property; and

C. The Easement Holder shall be responsible for monitoring for potential easement violations and/or encroachments and investigating and responding accordingly, as required in Section 10 below

9. NOTIFICATION OF TRANSFER, TAXES, MAINTENANCE

A. In the event the Rockingham Land Trust or its successors and assigns, as intended successors to the Grantor herein, intends to convey its interest or partial interest in said Property to another entity, subject to the requirements of Sections 2.C. and 2.D. of this Agreement, the Rockingham Land Trust and/or its successors and assigns shall first notify the Easement Holder in writing of the proposed successor and the terms and conditions of said transfer or assignment of the Property. Within sixty (60) days of receipt of said notice from the Grantor, the Easement Holder shall notify the Grantor if the Easement Holder is interested in acquiring the Property under identical terms and conditions. The Grantor shall include with such notice the name and address of said successor in interest, and copies of the written Purchase Offer or Agreement.

Funding for payment of the purchase price for such interest by the Easement Holder is obtained at the Annual Town Meeting by approval of a Warrant Article. In the event that the Easement Holder notifies the said Grantor of its intent to acquire its interest, or partial interest, in said Property under identical terms and conditions, the Easement Holder shall seek the necessary approval of the transaction and appropriation of the necessary funds to pay the Purchase Price at the next occurring Annual Town Meeting. In the event that the Easement Holder obtains the necessary vote to authorize this transaction and to appropriate the necessary funds to pay the purchase price, closing upon the acquisition of the said Property shall occur on or before ninety (90) days from the date of such Town Meeting vote.

Provided, however, at the time of the consummation of such transaction, the Easement Holder transfers this Easement to a qualified successor subject to the requirements set forth in Sections 2.C. and 2.D. in order that a merger of fee title and the easement interest does not occur.

Should the Easement Holder decline to acquire the Property under identical terms and conditions, or in the event that the Easement Holder does not obtain the necessary Town Vote authorizing this transaction and the appropriation of the necessary funds to pay the Purchase Price at Town Meeting, as provided herein, then the Grantor may proceed with the proposed transfer or assignment.

B. In any deed, lease or other agreement conveying an interest in the Property, the Grantor shall make reference to this Easement, and shall indicate that the provisions hereof are binding upon all successors in interest in the Property in perpetuity.

C. The Easement Holder shall be under no obligation to maintain the Property or pay any taxes, liens or assessments thereon.

10. BENEFITS, BURDENS

A. The burden of this Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to (a) the State of New Hampshire, the United States of America, or any subdivision of either of them, consistent with Section 170(c) (1) of the U.S. Internal Revenue Code of 1986, as amended, which government unit has among its purposes the conservation and preservation of land and water areas and agrees and is capable of enforcing the conservation Purposes of this Easement; or (b) 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, and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. If at any time it becomes impossible for the Easement Holder to ensure compliance with the restrictions and covenants contained herein, or that the Easement Holder ceases to exist, then the Easement Holder's rights and duties hereunder shall become vested in full and fall under any other entity as outlined above to which such rights and duties may be awarded by a court of competent jurisdiction under the doctrine of *cy pres*.

11. RESOLUTION OF DISAGREEMENTS

A. The Grantor and the Easement Holder desire that issues arising from time to time concerning uses or activities in light of the provisions of this Easement will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and the Easement Holder agree that if either party becomes concerned whether any use or activity (which together for the purposes of this Section 11 shall be referred to as the "**Activity**") complies with the provisions of this Easement, 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 Grantor agrees 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 Newfields, 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 Grantor and the Easement Holder 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 Newfields, New Hampshire, or such other location as the parties shall agree. 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 Easement. Each party shall pay its own attorneys' fees and the losing party shall pay the costs associated with the arbitration.

D. Notwithstanding the availability of mediation and arbitration to address disagreements concerning the compliance of any Activity with the provisions of this Easement, if the Easement Holder believes that some action or inaction of the Grantor or a third party is causing irreparable harm or damage to the Property, or in the event that the Easement Holder determines that certain actions must be taken to comply with the requirements of the United States of America, its subsidiaries or assigns, or to prevent divestiture of its interest in the Easement as provided herein, paragraph 11B and 11C will not apply, and the Easement Holder 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 Easement, to enjoin any violation by permanent injunction, and to require the restoration of the Property to its condition prior to any breach. Such action and any orders or decree entered by a Court in connection with such action shall take precedence over and supercede the provisions of this section

12. BREACH OF EASEMENT

A. If the Easement Holder determines that a violation of the terms of this Easement has occurred or is threatened, the Easement Holder shall give written notice to the Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves damage to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so damaged.

B. If the Grantor fails to cure the violation within 30 (thirty) days after receipt of the notice thereof from the Easement Holder, or under circumstances where the violation cannot reasonably be cured within a 30-day period, or if the Grantor fails to continue diligently to cure such violation until finally cured, the Easement Holder may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this 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 damage.

C. The Easement Holder shall be entitled to recover damages for violation of the terms of this Easement or damage to any conservation values protected by this Easement, including, without limitation, legal fees, court costs, reasonable Easement Holder expenses, and costs of restoration and damage to conservation values. Without limiting the Grantor's liability therefore the Easement Holder, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. In the event the Court finds in favor of the Grantor, the Easement Holder shall reimburse the Grantor all reasonable costs, without limitation, legal fees, court costs, and reasonable Grantor expenses.

D. The Easement Holder shall have the right, but not the obligation, to take such remedial action as may be deemed necessary to correct, or remediate any damage to the premises in the event the Grantor fails to cure the breach, and in the event of such occurrence, the Easement Holder would be entitled to recover from the Grantor the costs and expenses incurred relative to such remedial action.

E. Nothing contained in this Easement shall be construed to entitle the Easement Holder to bring any action against the Grantor for any damage to or change in the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, infestation, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate or mitigate significant damage to the Property resulting from such causes.

F. The Easement Holder and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

G. Except for the specific rights of the United States of America contained herein, enforcement of the terms of this Easement shall be at the discretion of Easement Holder, and any forbearance by the Easement Holder to exercise its rights under this Easement in the event of any breach of any term of this Easement shall not be deemed or construed to be a waiver by the Easement Holder of such term or of any subsequent breach of the same or any other term of this Easement or of any of Easement Holder's rights under this Easement.

H. The remedies described herein are in addition to, and not in limitation of, any other remedies available to the Easement Holder at law, in equity, or administrative proceedings.

13. NOTICES

All notices, requests and other communications, required to be given under this Easement 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 Grantor or the Easement Holder may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

14. SEPARATE PARCEL

The Grantor agrees that for the purpose of determining compliance with any present or future regulation (other than those governing N.H. Current Use Assessment under New Hampshire RSA chapter 79-A), bylaw, order, or ordinance (within this Section referred to as "legal requirements") of the town of Newfields, the State of New Hampshire or any other governmental unit, the Property shall be deemed a separate parcel of land and shall not be taken into account in determining whether any land of the Grantor, other than the Property, complies with any said legal requirements. The Property shall not be taken into account to satisfy in whole or in part any of said legal requirements or any area, density, setback or other dimensional standard applicable to such land.

15. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, after a court hearing, or by confirmation of an arbitration award, the remainder of the provisions of this Easement 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, so long as the Purposes of this Easement can still be achieved in the absence of the provisions that have been declared invalid.

16. CONDEMNATION

A. Whereas DES, the United States of America, acting through the NOAA, and the Rockingham Land Trust, (hereinafter collectively referred to as the "**Funding Partners**")

and the Town of Newfields have contributed funding to the purchase of this Easement, therefore, 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 this Easement, the Grantor, Funding Partners and the Town of Newfields 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.

B. The balance of the land damages recovered (including, for purposes of this subsection, proceeds from any lawful sale, in lieu of condemnation) shall be divided among the Grantor, the Funding Partners, and the Town of Newfields in proportion to the fair market value of their respective interests in the Property on the date of execution of this Easement. For this purpose, the Grantor shall receive 100% of the restricted fee of the Property, and the Funding Partners agree that the value of the Easement on the Property shall be apportioned as follows: the Rockingham Land Trust's interest shall be fifteen percent (15%), DES's interest shall be four percent (4%), NOAA's interest shall be forty-six percent (46%) and the Town of Newfield's interest shall be thirty-five percent (35%). The values of the respective interests have been determined based on an appraisal prepared by a qualified appraiser, copies of which have been submitted to the respective parties. The Funding Partners shall use any share of the proceeds in a manner consistent with and in furtherance of the conservation Purposes of this Easement set forth herein.

17. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor, with prior written approval of the Easement Holder and NOAA, may execute an additional instrument to that effect, provided that the conservation purposes of this Easement are not diminished thereby and that a public agency or qualified organization accepts and records the additional easement.

18. CONTINGENT RIGHTS OF THE UNITED STATES DEPARTMENT OF COMMERCE

A. The **United States of America** ("USA") 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 Easement, and to exercise the rights conveyed hereby, to carry out the duties assumed by the USA, and to maintain boundaries if the USA desire.

B. If the Easement Holder ceases to enforce the Easement conveyed hereby or fails to enforce it in accordance with notice received from USA after receipt of written notice from the USA requesting such enforcement delivered in hand or by certified mail, return receipt requested, then The USA shall have the right to enforce this Easement. The Easement Holder shall pay all reasonable costs of such enforcement. In such circumstance, the USA shall then also have the right to terminate the interest of the Easement Holder in the Property by recording a notice to that effect in the Registry of Deeds referring hereto and shall thereupon assume and thereafter have all interests,

rights, responsibilities and duties granted to and incumbent upon the Easement Holder in this Easement.

C. In the event that the Easement Holder fail to enforce any of the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of Commerce, (together with its successor and assigns, the "**Secretary**"), the said Secretary shall have the right to enforce the terms of this Easement through any and all authorities available under Federal or State law.

D. In the event that the Easement Holder attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this Easement or to extinguish this Easement without the prior consent of the Secretary and payment of consideration to the USA, then, at the Secretary option, all right, title, and interest in this Easement shall become vested in the USA.

19. AMENDMENT OF EASEMENT

This Easement may be amended only in the sole and exclusive judgment of the Easement Holder and the United States of America and only if such amendment furthers or is not inconsistent with the Purposes of this Easement. Any such amendment must be in writing, mutually agreed upon by the Easement Holder, and the Grantor and signed and duly recorded by the parties and shall be consistent with the purposes of this Easement and shall comply with I.R.C. Sec. 170(h), or any regulations promulgated in accordance with that Section. The Grantor and the Easement Holder have no right or power to agree to any amendment that would affect the enforceability of this Easement.

20. MISCELLANEOUS

A. The Grantor and the Easement Holder agree it is their express intent, forming a part of the consideration hereunder, that the provisions of this Easement set forth herein are to last in perpetuity, and to that end, no conveyance of the underlying fee interest in the Property by or to the Easement Holder, or the USA, or any successor or assign of them, shall be deemed to eliminate these Easement terms, or any portion thereof, pursuant to the doctrine of "merger" or any other legal doctrine.

B. The Easement Holder does not waive or forfeit the right to take action as may be necessary to insure compliance with this Easement by any prior failure to act and the Grantor hereby waives any defense of *laches* with respect to any delay or omission by the Easement Holder, its successors or assigns, in acting to enforce any restriction or exercise any rights under this Easement, any such delay or omission shall not impair the Easement Holder's rights or remedies or be construed as a waiver.

C. The Easement Holder, by accepting and recording this Easement, 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 Easement Holder, all in the furtherance of the conservation purposes for which this Easement is delivered.

Grantor intends and the parties hereto acknowledge that immediately subsequent to the recording of this Easement, the Grantor will convey their rights to the Property to the Rockingham Land Trust, Inc., a New Hampshire not-for-profit corporation, with an address of 8 Center Street, Town of Exeter, County of Rockingham, State of New Hampshire, 03833, ("Subsequent Fee Owner") having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code.

This Easement is being purchased, in part, with funds from a Federal assistance award. The Easement shall be held by the Town of Newfields, subject to disposition instructions from the United States of America, acting by and through the National Oceanic and Atmospheric Administration or its successor agencies (hereinafter sometimes referred to as the "USA" and/or "**NOAA**"). The Property shall be managed for the conservation purposes and uses under which it was entered into the Coastal and Estuarine Land Conservation Program. The Town of Newfields is responsible for monitoring and enforcing the provisions of this Easement and shall not dispose of this Easement or modify the terms thereof without the approval of NOAA or its successor agencies.

This Easement is also being purchased, in part, with funds from **State of New Hampshire** acting through the **Department of Environmental Services Drinking Water Protection Program** (hereinafter sometimes referred to as **"DES"**), pursuant to NH RSA 486-A.

1. PURPOSES

This Easement is granted pursuant to New Hampshire chapter RSA 477:45-47 and RSA chapter 486-A:1-14, exclusively for the following conservation purposes (hereinafter "**Purposes of this Easement**"), namely:

A. Water Quality. The perpetual protection of the quality and sustainable yield of groundwater and surface water resources under and on the Property to:

i. Safeguard present and future community drinking water supplies. The Property includes 70 acres that lie within the wellhead protection area of the Great Bay Water System on Schanda Drive; and, 1,200 feet of frontage on the Piscassic River, a tributary to the Lamprey River, which supplies Newmarket with drinking water. The entire 316-acre Property is within a 5-mile radius of Newmarket's intake on the Lamprey River and it is directly adjacent to a stratified drift aquifer, which has potential as a future drinking water source for the Town of Newfields.

ii. Safeguard the environmental values of the Property that are dependent on water quality and quantity. The property hosts 106 acres of classified wetlands that provide habitat to a diverse plant community structure, creating a mix of food and cover types for wildlife. Emergent marsh vegetation provides breeding habitat for marsh birds such as the green and great blue heron. Open water portions of the wetland complex are suitable habitat for the painted turtle, mallard, beaver and

E. The Easement Holder anticipates and consents to transfer of the Property from Joseph Falzone, Trustee of HALLS MILL ROAD REALTY TRUST; Richard D. Vitale, President and Treasurer of WASHINGTON NORTH REALTY CORPORATION; and DOROTHY B. HAUGHTON (collectively hereinafter referred to as the "Grantors") to the Rockingham Land Trust, Inc. after the execution of this instrument, and hereby acknowledges that the said Grantors have complied with all the terms of the Easement contained herein. The said Grantors are subject to the obligations set forth within the terms of this Conservation Easement only for the period of time they own the Property.

[Signatures on Following Pages]

Signed as a sealed instrument this 24th day of April, 2006.

HALLS MILL ROAD REALTY TRUST

Witness

By: Joseph Falzone, Trustee

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

On this 24th day of April, 2006 before me, the undersigned notary public, personally appeared Joseph Falzone, Trustee of Halls Mill Road Realty Trust, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☒ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the trust and that he has the authority to act in that capacity.

Notary Public
My Commission Expires:



Dorothy B. Haughton joins in this conveyance to grant a conservation easement on the Hill Pasture, so-called, described as Open Space 4 on the attached Appendix A. The Hill Pasture is not the homestead property of Dorothy B. Haughton.

Dorothy B. Haughton

The State of New Hampshire County of ROCKINGHAM personally appeared DOROTHY B. HAUGHTON and _____ this 26th day of APRIL, 2006 and acknowledged the foregoing to be his/her/their voluntary act and deed.

Before me, _____
LYNN D. MORSE
Justice of the Peace/Notary Public

My commission expires: 2.6.2007

LYNN D. MORSE NOTARY PUBLIC NEW HAMPSHIRE My Commission Expires February 6, 2007

ACCEPTED: TOWN OF NEWFIELDS

By: _____

Title: James M. McIlroy, Selectmen

Duly Authorized

Date: April 25, 2006

By: _____

Title: Janet M. Smith, Chairman

Duly Authorized

Date: _____

By: _____

Title: _____

Duly Authorized

Date: _____

The State of New Hampshire
County of Rockingham

Personally appeared **Janet M. Smith**, **James M. McIlroy**, and ~~**Wesley T. Moore**~~, Selectmen of the Town of Newfields, this 25th day of April, 2006 and acknowledged the foregoing on behalf of the Town of Newfields.

Before me, _____

Francis F. Lane, Jr., Justice of the Peace

My commission expires: November 16, 2010