

EXHIBIT B
GRANT OF DEVELOPMENT RIGHTS, CONSERVATION RESTRICTIONS,
OPTION TO PURCHASE AT AGRICULTURAL VALUE, and
CONTINGENT RIGHT of the UNITED STATES of AMERICA

KNOW ALL PERSONS BY THESE PRESENTS that _____, a single person, of _____, County of _____, State of Vermont, on behalf of ___ self and ___ heirs, executors, administrators, successors, and assigns (hereinafter "Grantor"), pursuant to Title 10 V.S.A. Chapters 34 and 155 and in consideration of the payment of Ten Dollars and other valuable consideration paid to ___ full satisfaction, does freely give, grant, sell, convey, and confirm unto the VERMONT LAND TRUST, INC., a non-profit corporation organized under the laws of the State of Vermont, with its principal offices in Montpelier, Vermont ("VLT"), the VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS, an agency of the State of Vermont with its principal offices in Montpelier, Vermont ("VAAF"), and the VERMONT HOUSING AND CONSERVATION BOARD, an independent board of the State of Vermont with its offices in Montpelier, Vermont ("VHCB"), and their respective successors and assigns (hereinafter collectively "Grantees") as tenants in common, forever, the development rights, option to purchase at agricultural value as set forth in Section V herein, a contingent right of the United States of America, and a perpetual conservation easement and restrictions (all as more particularly set forth below) in certain lands consisting of ___ acres, more or less, with the buildings and improvements situated thereon (hereinafter "Protected Property") located in the Town of _____, _____ County, State of Vermont, said Protected Property being more particularly described in Schedule A attached hereto and incorporated herein.

The purpose of the Federal Farm and Ranch Lands Protection Program is to purchase grants of development rights and conservation restrictions on land with prime, unique, or other productive soils for the purpose of protecting topsoil from conversion to nonagricultural uses (16 USC 3838h and 3838i). Under the authority of the Farm and Ranch Lands Protection Program, the United States Department of Agriculture's Natural Resources Conservation Service ("NRCS") has provided federal funds to Grantee Vermont Housing and Conservation Board to assist in the acquisition of this Grant entitling the United States to rights identified herein.

The development rights hereby conveyed to Grantees shall include all development rights except those specifically reserved by Grantor herein and those reasonably required to carry out the permitted uses of the Protected Property as herein described. The development rights and option hereby conveyed are rights and interests in real property pursuant to Title 10 V.S.A. §§ 823 and 6303. The conservation restrictions hereby conveyed to Grantees consist of covenants on the part of Grantor to do or refrain from doing, severally and collectively, the various acts set forth below, to the extent those acts relate to Grantor and not exclusively to Grantees. Grantor and Grantees acknowledge that the conservation restrictions constitute a servitude upon the land and run with the land.

I. Purposes of the Grant.

Grantor and Grantees acknowledge that the Purposes of this Grant are as follows:

1. Consistent with the goals set forth in 10 V.S.A. §§ 821 and 6301, the primary purpose of this Grant is to conserve productive agricultural and forestry lands and soil resources in order to facilitate active and economically viable farm use of the Protected Property now and in the future.

2. As a secondary objective, to conserve scenic and natural resources associated with the Protected Property, to improve the quality of life for Vermonters, and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside.

3. The objective of encouraging sustainable management of soil resources will be further advanced by the Grantor's agreement to work cooperatively with NRCS to limit soil erosion on highly erodible land ("HEL") in accordance with NRCS standards.

4. These purposes will be advanced by conserving the Protected Property because it possesses the following attributes *[numbers may change, based on more detailed mapping by VLT staff, prior to signing of the easement]*:

- a) _____ acres of agricultural soils of prime significance;
- b) _____ acres of agricultural soils of statewide significance;
- c) _____ acres of managed sugarbush;
- d) _____ acres of managed forest;
- e) _____ feet of frontage on _____ Road, _____ Road, and _____ Road, public highways with scenic vistas; and
- f) in the vicinity of ___ () other properties previously protected by Grantees.

Grantor and Grantees recognize these agricultural, silvicultural, scenic, and natural values of the Protected Property, and share the common purpose of conserving these values by the conveyance of conservation restrictions, development rights, and option to purchase, to prevent the use, fragmentation, or development of the Protected Property for any purpose or in any manner which would conflict with the maintenance of these agricultural, silvicultural, scenic, and natural values. Grantees accept such conservation restrictions, development rights and option to purchase in order to conserve these values for present and future generations and to ensure resale of the Protected Property at its agricultural value.

The purposes set forth above in this Section I are hereinafter collectively referred to as the "Purposes of this Grant."

II. Restricted Uses of Protected Property.

The restrictions hereby imposed upon the Protected Property, and the acts which Grantor shall do or refrain from doing, are as follows:

1. No residential, commercial, industrial, or mining activities shall be permitted, and no building, structure or appurtenant facility or improvement shall be constructed, created, installed, erected, or moved onto the Protected Property, except as specifically permitted under this Grant. The Protected Property shall be used for agricultural, forestry, educational, non-commercial recreation, and open space purposes only.

2. Each time that the agricultural land on the Protected Property lies fallow for more than two successive years (the "fallow land"), Grantor shall cooperate with Grantees, at Grantees' request, to maintain the fallow land in an open condition (meaning without trees and brush) and in active agricultural use. For example, Grantor shall permit access to the fallow land

by Grantees and Grantees' contractors to crop, mow, or brush-hog. No obligation is hereby imposed upon Grantor or Grantees to maintain the fallow land in an open condition or in active agricultural use.

3. No rights-of-way, easements of ingress or egress, driveways, roads, utility lines, other easements, or other use restrictions shall be constructed, developed, granted, or maintained into, on, over, under, or across the Protected Property, without the prior written permission of Grantees, except as otherwise specifically permitted under this Grant, and as appear of record prior to the date of this Grant. Grantees may grant permission for any rights-of-way, easements of ingress or egress, driveways, roads, utility lines, other easements, or other use restrictions, if they determine, in their sole discretion, that any such rights-of-way, easements of ingress or egress, driveways, roads, utility lines, other easements or other use restrictions are consistent with the Purposes of this Grant.

4. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property. Grantor, however, may erect and maintain reasonable: (a) signs indicating the name of the Protected Property, (b) boundary markers, (c) directional signs, (d) signs regarding hunting, fishing, trapping, trespassing on the Protected Property or signs otherwise regarding public access to the Protected Property, (e) memorial plaques, (f) temporary signs indicating that the Protected Property is for sale or lease, (g) signs informing the public that any agricultural or timber products are for sale or are being grown on the Protected Property, (h) political or religious signs, or (i) signs informing the public of any rural enterprise approved pursuant to Section III below. Grantees, with the permission of Grantor, may erect and maintain signs designating the Protected Property as land under the protection of Grantees.

5. The placement, collection, or storage of trash, refuse, human waste, or any other unsightly or offensive material on the Protected Property shall not be permitted except at such locations, if any, and in such a manner as shall be approved in advance in writing by Grantees which approval shall not be unreasonably withheld if such placement, collection or storage is consistent with the Purposes of this Grant. The on-site storage and spreading of agricultural inputs including, but not limited to, lime, fertilizer, pesticides, compost or manure for agricultural practices and purposes, the storage of feed, and the temporary storage of trash generated on the Protected Property in receptacles for periodic off-site disposal, shall be permitted without such prior written approval.

6. There shall be no disturbance of the surface, including but not limited to filling, excavation, removal of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except as may be reasonably necessary to carry out the uses permitted on the Protected Property under this Grant. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

7. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor shall conduct all agricultural operations on the Protected Property in a manner consistent with a conservation plan for highly erodible land ("conservation plan") prepared in consultation with NRCS and approved by the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on (INSERT EASEMENT SIGNATURE DATE). However, the Grantor may develop and implement a conservation plan that proposes a higher level of

conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

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

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

10. The Protected Property shall not be subdivided or conveyed in separate parcels, nor shall ownership of the buildings on the Protected Property be separated from the ownership of the Protected Property without the prior written approval of Grantees, which approval may be granted, conditioned or denied in Grantees' sole discretion except as otherwise specifically permitted in this Grant.

11. No use shall be made of the Protected Property, and no activity thereon shall be permitted which is or is likely to become inconsistent with the Purposes of this Grant. Grantor and Grantees acknowledge that, in view of the perpetual nature of this Grant, they are unable to foresee all potential future land uses, future technologies, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Grant. Grantees, therefore, in their sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Grant, or (b) alterations in existing uses or structures, are consistent with the Purposes of this Grant.

III. Permitted Uses of the Protected Property.

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Protected Property:

1. The right to establish, re-establish, maintain, and use cultivated fields, orchards, and pastures together with the right to construct, maintain, and repair fences and gravel or other permeable surfaced access roads for these purposes, all in accordance with sound agricultural practices and sound husbandry principles; provided, however, that Grantor shall obtain Grantees' prior written approval to clearcut forest land to establish fields, orchards or pastures. Grantees' approval shall not be unreasonably withheld if such clearcutting is consistent with the Purposes

of this Grant.

2. The right to conduct maple sugaring operations, and the right to harvest timber and other wood products, together with the right to construct and maintain roads necessary for both such activities, in accordance with sound forestry practices and in accordance with a forest management plan for which Grantor has received the prior written approval of Grantees. Grantor may conduct maple sugaring operations, and may harvest firewood for heating residences and structures located on the Protected Property, both on existing woods roads only, without submission and approval of a plan. Grantees' approval of forest management plans that may be submitted from time to time shall not be unreasonably withheld or conditioned, if such plans have been approved by a professional forester and if such plans are consistent with the Purposes of this Grant.

3. The right to construct, maintain, repair, renovate, replace, enlarge, rebuild, and use new and existing barns, sugar houses, or similar non-residential structures or facilities, together with necessary access drives and utilities for agricultural and forestry uses, on the Protected Property; provided, however, that (a) the structures are used exclusively for agricultural or forestry purposes, and (b) any new construction, other than normal maintenance and repair, has been approved in writing in advance by Grantees. Grantees' approval may include designation of a complex surrounding the structures and shall not otherwise be unreasonably withheld or conditioned; provided, however, that (a) the structure or other improvement is located in a manner which is consistent with the Purposes of this Grant and (b) the total impervious surface area, which includes permanent non-seasonal rooftops, concrete and asphalt does not exceed two (2) percent of the area of Protected Property, except that conservation practices approved by NRCS shall not be included in such limitation. Grantor shall not deem unreasonable a condition by Grantees that certain structures must be located within an existing complex or a complex which may be designated in the future as provided in this Section III.

4. The right to use, maintain, establish, construct, and improve water sources, courses, and bodies within the Protected Property for uses permitted in this Grant; provided, however, that Grantor does not unnecessarily disturb the natural course of the surface water drainage and runoff flowing over the Protected Property. Grantor may disturb the natural water flow over the Protected Property in order to improve drainage of agricultural soils, reduce soil erosion or improve the agricultural potential of areas used for agricultural purposes, but shall do so in a manner that has minimum impact on the natural water flow and is otherwise consistent with the Purposes of this Grant. The construction of ponds or reservoirs shall be permitted only upon the prior written approval of Grantees, which approval shall not be unreasonably withheld or conditioned; provided, however, that such pond or reservoir is located in a manner which is consistent with the Purposes of this Grant.

5. The right to clear, construct, and maintain trails for non-commercial walking, horseback riding, skiing, and other non-commercial, non-motorized recreational activities within and across the Protected Property, all in a manner consistent with the Purposes of this Grant. Non-commercial snowmobiling may be permitted at the discretion of Grantor.

6. The right to maintain, repair, renovate, replace, enlarge, rebuild, and use: (a) the existing (single-family/two-family) dwelling for residential purposes, (b) the existing farm buildings

for non-residential, agricultural uses, (c) the existing non-residential appurtenant structures and improvements, including drives and utilities, normally associated with a dwelling or farm, and (d) construct, maintain, repair, renovate, replace, enlarge, rebuild, use and occupy new farm buildings for non-residential, agricultural uses and appurtenant structures and improvements, including drives and utilities, normally associated with a dwelling or farm, all within the designated Farmstead Complex without the prior written approval of Grantees. The Farmstead Complex is an area consisting of ___ acres, more or less, and is more particularly described in Schedule B attached hereto and incorporated herein, and is depicted on the _____ Farm Plan described in Schedule A attached hereto and incorporated herein. Grantor shall notify Grantees in writing prior to commencing construction on any new structure or improvement within the Farmstead Complex.

Assignment of "Farm Labor Housing" status to an existing home:

7. The right to maintain, repair, renovate, enlarge or rebuild the existing (single-family/two-family) dwelling identified as "FLH" on the _____ Farm Plan as a farm labor housing unit, together with appurtenant non-residential structures and improvements, including drives and utilities, normally associated with a residence; **provided, however**, that the farm labor housing unit shall be (a) occupied by Grantor or at least one person who is a member of Grantor's family or who is employed on the farm, and (b) located in the area depicted as "FLH Complex" on the _____ Farm Plan, and described in Schedule C attached hereto and incorporated herein. In the event the farm labor housing unit is not required for housing a farm employee, Grantor, or a member of Grantor's family, Grantor may rent the unit to other persons for successive lease terms not to exceed one year each, but shall not otherwise transfer ownership or possession of the farm labor housing unit. The farm labor housing unit shall not be conveyed separately from the Protected Property, but may be subdivided with the prior written approval of Grantees if such subdivision is required by state or local regulation. Grantees, in their sole discretion, may permit, in a written letter of approval, an alternative FLH site; **provided, however**, such an alternative FLH site is (i) located in a manner consistent with the Purposes of this Grant as stated in Section I, above, and (ii) found by Grantees to have no greater negative impact on the conservation values underlying the Purposes of this Grant than the original FLH site.

Farm Labor Housing to be added in the future:

8. The right to construct, maintain, repair, renovate, replace, enlarge, rebuild, and use one (1) farm labor housing unit ("FLH"), together with appurtenant non-residential structures and improvements, including drives and utilities, normally associated with a residence; **provided, however**, that the FLH shall be (a) occupied by Grantor or at least one person who is a member of Grantor's family or who is employed on the farm, and (b) located in the area depicted as "FLH Site" on the _____ Farm Plan. Upon construction of the FLH, Grantees, in their sole discretion, may designate a Farm Labor Housing Complex around it no larger than is necessary to accommodate the FLH and its appurtenant structures. In the event the FLH is not required for housing a farm employee, Grantor, or a member of Grantor's family, Grantor may rent the FLH to other persons for successive lease terms not to exceed one year each, but shall not otherwise transfer ownership or possession of the FLH. The FLH shall not be conveyed separately from the Protected Property, but may be subdivided with the prior written approval of Grantees if such subdivision is required by state or local regulation. Grantees, in their sole discretion, may permit, in a written letter of approval, an alternative FLH site; **provided, however**, such an alternative FLH site is (i) located in a manner consistent with the Purposes of this Grant as stated

in Section I, above, and (ii) found by Grantees to have no greater negative impact on the conservation values underlying the Purposes of this Grant than the original FLH site.

9. The right to conduct rural enterprises consistent with the Purposes of this Grant, especially the economically viable use of the Protected Property for agriculture, forestry and open space and the conservation of agriculturally and silviculturally productive land. In connection with such rural enterprises, the right to maintain, repair, enlarge, replace and use permitted structures with associated utility services, drives and appurtenant improvements within a Farmstead Complex, Barn Complex, Farm Labor Housing Complex or other designated complex permitted by this Section III. Grantees may approve a new, non-residential, structure for an approved rural enterprise only if an existing structure is not suitable and the new structure is:

- a) located within a permitted Farmstead Complex, Barn Complex, Farm Labor Housing Complex or other designated complex;
- b) fewer than 1500 square feet as an exterior measure of the footprint and no more than 25 feet from the lowest undisturbed ground level to the roof peak;
- c) inclusive of all storage space so that no part of the business is conducted outside of the structure;
- d) of a nature, intensity, scope, size, appearance, type and quantity compatible with the existing agricultural structures;
- e) located in a way that minimizes negative impact on future operations and expansion of agricultural uses, does not interfere with current agricultural operations and does not displace farm or forestry storage, use or functions;
- f) non-residential; and
- g) not inconsistent with the Purposes of this Grant.

No use or structure contemplated under this Section III(____) shall be commenced, constructed or located without first securing the prior written approval of Grantees, which approval Grantees may deny or condition in their sole discretion. All structures and uses shall conform with all applicable local, state and federal ordinances, statutes and regulations. Grantees' approval may be conditioned upon, without limitation, receipt of copies of any necessary governmental permits and approvals that Grantor obtains for such use or construction. Grantee VHCB shall not approve a new structure for a non-agricultural approved rural enterprise unless the proposed structure meets factors (a) through (g), above. However, VHCB may waive factors (b), (c) or (d) if the Grantees determine that the unique circumstances of the situation warrant waiver and approval. In the event that a waiver is requested, prior written consent of NRCS must be obtained if the total existing and planned impervious surface area exceeds two (2) percent of the area of the Protected Property.

Add this paragraph if project has an excluded parcel or building complex or building envelope

10. The right to construct, maintain, repair, replace, relocate, improve and use systems for disposal of human waste and for supply of water for human consumption (collectively "systems") on the Protected Property

for the benefit of buildings or structures permitted under this Section III within a designated building complex ("Complex") [delete if there is no complex] and

for not more than one single-family residence which may be located on [add "each parcel of" if

there is more than one excluded parcel owned by Grantor] land owned by the original Grantor herein at the date of this Grant but excluded from the Protected Property under Schedule A hereto (“Exclusion”) [delete if there is no excluded parcel] and

for not more than one single-family residence which may be located on the [change “the” to “each of the ___ parcels of” if more than one excluded parcel] land which may be excluded from the Protected Property under Section III() as a Building Envelope [delete if there is no Building Envelope].

Any such systems may be constructed, maintained, operated, repaired, replaced, relocated or improved on the Protected Property only if there does not exist within the designated Complex, Building Envelope or Exclusion any suitable location for such systems, under the then applicable law or regulations, as determined by a licensed designer as defined in the wastewater system and potable water supply rules, retained at Grantor’s sole cost and expense. Grantor shall first obtain the written approval of Grantees for the location, relocation, replacement or improvement of such systems on the Protected Property, which approval shall not be unreasonably withheld nor conditioned, provided that:

- a) All reasonable attempts to locate, relocate, replace or improve the systems within the Complex, Building Envelope or Exclusion in a manner that complies with the then current law and regulations are exhausted; and
- b) Such systems are located in a manner consistent with the Purposes of this Grant and especially minimize the loss of agricultural soils; and,
- c) Such systems are designed by a licensed designer as defined in the wastewater system and potable water supply rules retained at Grantor’s sole cost and expense, certified by the licensed designer as complying with the wastewater system and potable water supply rules, installed in compliance with the wastewater system and potable water supply rules, certified by an installer or licensed designer as being installed in accordance with the certified design and approved in accordance with all the then applicable State and Local ordinances, statutes and regulations.

After Grantor has obtained Grantees’ approval for systems serving any Building Envelope or Exclusion, Grantor shall have the right to convey legal access to the successor owners of the Building Envelope or Exclusion for construction, operation and maintenance of the systems as an appurtenance only to the Building Envelope or Exclusion. [Delete the entire paragraph if there is no Building Envelope or Exclusion.]

IV. Enforcement of the Restrictions.

Grantees shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantees may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, Grantees shall have the right of reasonable access to the Protected Property. In the event that a Grantee becomes aware of an event or circumstance of non-compliance with this Grant, Grantee shall give notice to Grantor and the other Grantees of such event or circumstance of non-compliance via certified mail, return receipt requested, and demand corrective action by Grantor sufficient to abate such event or circumstance of non-

compliance and restore the Protected Property to its previous condition. In the event there has been an event or circumstance of non-compliance which is corrected through negotiation and voluntary compliance, but which has caused Grantees to incur extraordinary costs, including staff time, in investigating the non-compliance and securing its correction, Grantor shall, at Grantees' request, reimburse Grantees for all such costs incurred in investigating the non-compliance and in securing its correction.

Failure by Grantor to cause discontinuance, abatement, or such other corrective action as may be demanded by Grantees within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Grantees to bring an action in a court of competent jurisdiction to enforce the terms of this Grant and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Grantees to corrective action on the Protected Property, if necessary. If the court determines that Grantor has failed to comply with this Grant, Grantor shall reimburse Grantees for any reasonable costs of enforcement, including court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court. In the event that a Grantee initiates litigation and the court determines that Grantor has not failed to comply with this Grant and that one or more of Grantees have initiated litigation without reasonable cause or in bad faith, then the Grantee(s) who commenced the court proceedings shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorneys' fees; provided, however, that this clause shall not apply to the VAAF and the United States of America. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss, and damage to the Protected Property and accordingly entitle Grantees to such equitable relief, including but not limited to injunctive relief, as the court deems just. The remedies described herein are in addition to, and not in limitation of, any other remedies available to Grantees at law, in equity, or through administrative proceedings.

No delay or omission by Grantees in the exercise of any right or remedy upon any breach by Grantor shall impair Grantees' rights or remedies or be construed as a waiver. Nothing in this enforcement section shall be construed as imposing a liability upon a prior owner of the Protected Property, when the event or circumstance of non-compliance occurred after said prior owner's ownership or control of the Protected Property terminated.

V. Option to Purchase at Agricultural Value.

Grantees shall have an option to purchase the Protected Property at its agricultural value in accordance with the terms and provisions of this Section V ("this Option"). This Option is an integral part of this Grant and constitutes a restriction that runs with the land. This Option shall be perpetual in duration and is given on the following terms and conditions.

1. **Option Trigger.** Grantor shall not sell, transfer or convey the Protected Property, in whole or in part, without first offering the Protected Property for sale to Grantees pursuant to this Section V; provided, however, that the following described transactions shall be permitted without such prior consent and shall not trigger Grantees' rights under this Option:

- a) Any mortgage, pledge, or other assignment of the Protected Property to a lender as security for indebtedness, provided the Grantees' interest under this Option is treated as an interest in real estate such that in the event of foreclosure Grantees

are deemed necessary parties defendant in such foreclosure case and have the right to redeem the Protected Property from the foreclosure action; and

- b) Any conveyance of the Grantor to Grantor's family, as the latter term is defined in Section VII below, by gift, inheritance, sale or other transfer; and
- c) Any conveyance of the Protected Property to a person who presently earns at least one-half of his or her annual gross income from the "business of farming," as that term is defined in Regulation 1.175-3 under the Internal Revenue Code of 1954; and who, in connection with the farming operations on the Protected Property, will continue to earn at least one-half of his or her annual gross income from the "business of farming" ("a Qualified Farmer"); and
- d) Any lease to a Qualified Farmer; provided, however, that any such lease shall expressly provide that, unless otherwise agreed by Grantees, the lease shall terminate and possession shall be delivered free and clear of any rights of the tenant upon a closing of the sale of the Protected Property following exercise of this Option.

This Option shall apply to all other sales and conveyances of the Protected Property, including any sale or conveyance for consideration of any interest in the Protected Property including any conveyance by, or conveyance of any interest in a family corporation, partnership or other holding entity.

2. **Notice of Intent.** Whenever Grantor receives an offer from a person or persons ("Buyer") to purchase all or any part of the Protected Property ("the Offer"), and Grantor accepts the Offer subject to this Option, Grantor shall deliver to Grantees by certified mail, return receipt requested a Notice of Intent to Sell, which notice shall include:

- a) A duplicate original of the Offer, together with such other instruments as may be required to show the bona fides of the Offer; and
- b) A written description of the Buyer's training and experience as an agricultural producer and an agricultural business plan for the Protected Property, including a description of the agricultural activities to be conducted or facilitated by Buyer, proposed improvements to the Protected Property, and a statement of anticipated agricultural income and expenses for the three-year period following Buyer's purchase of the Protected Property or, if Buyer has no such training and experience or intention of operating an agricultural business on the Protected Property, a written statement to that effect; and
- c) If the Buyer is purported to be a Qualified Farmer, the documents necessary to establish the Buyer as such, including the Buyer's most recent federal income tax filing, if applicable.

Information delivered to Grantees pursuant to this clause shall remain confidential and shall not be released to any person or entity not a party to this Grant, without the prior consent of Grantor.

3. **Exercise of Option.** This Option may be exercised by Grantees as follows:
 - a) A Grantee shall give written Notice of Intent to Exercise not more than thirty (30) days following receipt of the Notice of Intent to Sell described in Section V(2); failure by a Grantee to provide such notice shall constitute a waiver of its rights under this Option; and
 - b) Thereafter, Grantor and Grantees shall fix the purchase price for the Protected Property by executing the Price Agreement described in Section V(4), below.
 - c) A Grantee shall exercise this Option by giving written Notice of Intent to Purchase not more than thirty (30) days following Grantor's and Grantee's execution of the Price Agreement.

Notices required by this Section V(3) shall be delivered to Grantor by certified mail, return receipt requested to the address provided by Grantor in the Notice of Intent to Sell described in Section V(2), above. In the event that more than one Grantee exercises this Option, the Vermont Land Trust, Inc. shall have first priority, the Vermont Housing and Conservation Board second priority, and the Vermont Agency of Agriculture, Food and Markets third priority. The Grantee with highest priority which exercises this Option is hereafter referred to in Sections V(4), (5) and (6) as "Grantee."

4. **Purchase Price.** The purchase price shall be determined by mutual agreement of Grantor and Grantee; provided that if no such agreement can be reached, the Purchase Price of the land shall be the greater of:

- a-1) \$ _____ plus an inflation adjustment determined by multiplying the foregoing value by 1 (one) plus the fractional increase calculated from the date hereof in the Consumer Price Index for all Urban Consumers, Boston, All Items published by the Bureau of Labor Statistics, U.S. Department of Labor, or a successor index published by the United States government to the date of the Offer; **or**
- a-2) The full fair market value of all land subject to the Offer (including the site of any structures) assuming its highest and best use is commercial agricultural production commonly occurring within the market area where the Farm is located on the date of the Offer, as determined by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee. Permanently installed land improvements, like in ground irrigation systems, farm roads, and tiling shall be considered part of the land. This appraisal shall take into consideration the permitted and restricted uses set forth in, and the impact on value caused by the Grant.

With respect to any agricultural, forestry or minor incidental structures and improvements in existence as of the date of the Offer, then in addition to the foregoing land value, the Purchase Price shall also include:

- b) The value of all such structures and improvements on the Protected Property as of the date of the Offer excluding all land (which is included in the Section V(4)(a) valuation, above). The value of the structures and improvements shall be determined using the replacement cost approach to valuation (i.e., the cost to replace the structures and improvements with those of comparable size and utility, less depreciation and functional obsolescence) by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee.

[DRAFTER NOTE: Delete this section if there is no house or house right on the Protected Property.]

With respect to any residence(s) in existence as of the date of the Offer, then in addition to the foregoing land value, the Purchase Price shall also include:

- c) The value of the residence and its appurtenant structures and improvements as of the date of the Offer excluding the value of the land upon which these structures sit (which is included in the Section V(4)(a) valuation, above). The value of the residence and appurtenant structures and improvements shall be determined using the replacement cost approach to valuation (i.e., the cost to replace the residence, structures and improvements with those of comparable size and utility, less depreciation and functional obsolescence) by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee.

Grantor and Grantee shall enter into a written agreement fixing the purchase price as provided in this Section V(4), within ten working days of reaching mutual agreement or, if no such agreement is reached, such agreement shall be based upon the appraised values and shall be entered into within ten working days of each party's receipt of the appraisals referenced above ("Price Agreement").

5. **Entry onto the Farm.** After receiving the notice from Grantor described in Section V(2), above, and upon reasonable notice to the Grantor, the Grantee shall have the right to enter upon the Protected Property from time to time for the purpose of preparing for the purchase of the Protected Property, including but not limited to preparing appraisals, conducting soils tests or engineering studies, or obtaining other information about the Protected Property. Grantee's entry onto or testing of the Protected Property shall be conducted in a manner that minimizes any disturbance to the land and to the use and enjoyment of the Protected Property by the Grantor or any tenants in possession.

6. **Closing of the Purchase.** If this Option is exercised, the parties shall close on the sale on or before thirty (30) days from the delivery of the Notice of Intent to Purchase described in Section V(3)(c), above, unless otherwise agreed. The following conditions shall apply to said closing:

- a) Grantor shall, by Vermont Warranty Deed, deliver good, clear, record and marketable title to the Grantee, free of all liens or other encumbrances (including discharge or release of outstanding mortgages), sufficient for the Grantee to secure title insurance at Grantee's sole expense. Grantee agrees to accept title

subject to (i) customary utility distribution easements, (ii) rights of the public to use roads laid out by municipalities, the state or federal government, (iii) rights of way and other easements that do not, in the Grantee's opinion, materially impair beneficial use of the Protected Property; and (iv) the terms and conditions of this Grant. The state of title to the Protected Property shall be determined by a title examination paid for by the Grantee.

- b) Grantor agrees to use reasonable efforts to deliver marketable title as set forth in Section V(6)(a), above. In the event Grantor is unable to give marketable title, then the Grantee may elect to terminate its exercise of this Option. The Grantee shall have the right to elect to accept such title as Grantor can deliver and to pay the purchase price without reduction.
- c) Grantor represents to Grantee that Grantor is not now aware of any hazardous waste having been dumped or placed upon the Protected Property. Grantor will update this representation in writing upon the Grantee's delivery of the Notice of Intent to Exercise described in Section V(3), above. Grantor agrees that the Grantee may, at the Grantee's expense, perform any and all tests and/or inspections necessary to confirm these representations. In the event that the Grantee discovers that hazardous wastes have been dumped or placed upon the Protected Property, the Grantee may at the Grantee's option declare its exercise of this Option to be null and void.
- d) The Grantor and the Grantee shall prorate property taxes as of the date of closing.
- e) The Grantor shall not physically alter the Protected Property or the improvements on the Protected Property or enter into any lease after a Grantee delivers the Notice of Intent to Exercise provided in Section V(3)(a), above, and while the Grantee may purchase pursuant thereto, except to perform generally accepted agricultural practices and normal repairs. In the event any structure is substantially destroyed by fire or other casualty, Grantee may elect to (1) proceed to closing and accept the proceeds of any insurance policy Grantor may have with respect to such destruction; or (2) if such insurance proceeds are less than the value of the structure as determined under Section V(4), above, proceed to closing and accept the proceeds of said insurance policy and reduce the purchase price by the difference between such value and insurance proceeds; or (3) withdraw its election to exercise this Option.
- f) The Protected Property shall be conveyed free of all leases, tenancies, tenants and occupants, unless Grantee otherwise agrees in writing.
- g) All personal property, livestock, machinery and equipment not included in the sale shall be removed from the Protected Property, and all other waste and debris shall be removed from the Protected Property prior to closing. Grantor and Grantee will jointly inspect the Protected Property 24 hours prior to closing.

- h) After closing, this Option shall remain in full force and effect with respect to all subsequent conveyances of the Protected Property, except as identified in Section V(1), above.

7. **Partial Release of Option.** At the request of Grantor, Grantees shall execute a partial release of their rights under this Option Agreement ("the Partial Release"), and upon the first to occur of the following events, the Grantees shall immediately deliver the Partial Release to the _____ Town Clerk for recording in the _____ Land Records:

- a) Grantees' failure to deliver the Notice of Intent to Exercise as described in Section V(3)(a), above;
- b) Grantees' failure to deliver the Notice of Intent to Purchase as described in Section V(3)(c), above; or
- c) Grantees' election to terminate its exercise of this Option based on title defects as provided in Section V(6)(b), hazardous materials as provided in Section V(6)(c), or destruction of structures as provided in Section V(6)(e).

Should no Grantee exercise this Option as provided in Section V(3), above, or should a Grantee fail to close following its delivery of the Notice of Intent to Purchase, Grantor may proceed to close on the sale to the Buyer on the terms and conditions described in the Notice of Intent to Sell, within twelve (12) months of the delivery of said Notice to Grantees. Provided, however, this Option shall remain in full force and effect with respect to all subsequent conveyances of the Protected Property, except as identified in Section V(1) above.

8. **Partial Assignment by Grantees.** A Grantee may partially assign its rights under this Option, provided:

- a) No such assignment shall be made prior to Grantor and Grantee executing the Price Agreement described in Section V(4), above;
- b) Such assignment shall be in writing, with the assignee undertaking to discharge all obligations of Grantee with respect to purchase of the Protected Property, and a copy of the written assignment shall be delivered to Grantor;
- c) The assignee shall be a party which, in the reasonable opinion of the Grantee, will use or will facilitate the use of the Protected Property for commercial agricultural production; and

The partial assignment shall pertain only to a single exercise of this Option in response to a discrete Notice of Intent to Sell delivered to Grantees. While no consent of Grantor shall be required for said single exercise, no Grantee shall otherwise assign all of its rights and interests under this Option without the prior written consent of Grantor.

VI. **Contingent Right of United States of America.**

Grantees covenant and agree that:

1. Grantee VHCB shall not voluntarily terminate, transfer or otherwise divest itself of all right, title or interest in this Grant without the prior, written consent of the Secretary of the United States Department of Agriculture ("the Secretary"). In the event that VHCB attempts to terminate, transfer or otherwise divest itself of all right, title or interest in this Grant without the prior written consent of the Secretary and payment of consideration to the United States, then at the option of the United States, all of VHCB's right, title and interest in this Grant shall become vested in the United States; and

2. Grantees shall periodically monitor the Protected Property to assure compliance with the terms and conditions of this Grant and, if an event of non-compliance or violation is discovered, Grantees shall take all reasonable steps to secure compliance with this Grant, including efforts at securing voluntary compliance and, if necessary, appropriate legal action.

3. On behalf of Grantees, VHCB shall provide written notice to NRCS of all amendments to this Grant and VHCB shall obtain prior written approval of NRCS for amendments requiring approval. Any such amendment shall be consistent with the Purposes of this Grant.

4. If this Grant is extinguished, terminated or condemned, in whole or in part, then VHCB and the United States are each entitled to a proportional share of the amount of sale proceeds or condemnation award received by VHCB pursuant to Section VII(5) of this Grant, provided that such amount is based on the fair market value of VHCB's interest in the Protected Property on the date of extinguishment or condemnation. The proportional share of the United States in the fair market value of VHCB's interest in this Grant is fifty percent (50%) so the proportional share applicable to the amount of sale proceeds or condemnation award received by VHCB shall be 50% for VHCB and 50% for the United States.

In the event that Grantees fail to enforce this Grant, the United States has a right to enforce this Grant, which shall be exercised by mailing a written notice (the "Notice") by certified mail to Grantees or the last known address of any successors or assigns. Said Notice shall declare that the right of enforcement is being exercised and shall state the specific event of non-compliance which caused the action. Grantees shall have a period of sixty (60) days from the date of their receipt of said Notice to correct the non-compliance. If, in the reasonable opinion of the United States, the non-compliance is not cured within said sixty (60) day period, the United States' right of enforcement shall become final.

Except as provided in Section VI(1), the rights of the United States contained in this Section shall not terminate or otherwise alter Grantees' interests in this Grant.

VII. Miscellaneous Provisions.

1. Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantees before commencing an activity or act, and where Grantees have designated in writing another organization or entity which shall have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of Grantees. Grantor shall reimburse Grantees or Grantees' designee for all extraordinary costs, including staff time, incurred in reviewing the proposed action requiring Grantees' approval; but not to include those

costs which are expected and routine in scope. Upon the request of Grantor, Grantees shall deliver to Grantor, in written recordable form, any approval, disapproval, election, or waiver given by Grantees pursuant to this Grant.

2. It is hereby agreed that the construction of any buildings, structures, or improvements, or any use of the land otherwise permitted under this Grant, or the subdivision and separate conveyance of any land excluded from this Grant in Schedule A attached hereto, shall be in accordance with all applicable ordinances, statutes, and regulations of the Town of _____ and the State of Vermont and at Grantor's sole expense.

3. It is further agreed that the Protected Property is accurately depicted and described in both the _____ Farm Plan and a Baseline Documentation Report ("BDR") signed by the original Grantor on or about the date of this Grant and held by Grantee VLT, on behalf of all Grantees. Grantees may use the _____ Farm Plan or BDR in enforcing this Grant, but are not limited in their use of the _____ Farm Plan and BDR to show a change of conditions.

4. Grantees shall transfer the development rights, option to purchase, and conservation easement and restrictions conveyed by Grantor herein only to a State agency, municipality, or qualified organization, as defined in Chapter 34 or Chapter 155 Title 10 V.S.A., in accordance with the laws of the State of Vermont and the regulations established by the Internal Revenue Service governing such transfers. Pursuant to Section VI(1), Grantee VHCB shall obtain the prior written approval of the United States prior to any transfer of its right, title or interest in this Grant. *[If access easement is included, add: No such assignment limitation shall apply to the access easement which shall be separately assignable.]*

5. In the event the development rights or conservation restrictions conveyed to Grantees herein are extinguished by eminent domain or other legal proceedings, Grantees shall be entitled to any proceeds which pertain to the extinguishment of Grantees' rights and interests. Any proceeds from extinguishment shall be allocated between Grantor and Grantees in accordance with the value of their respective interests as determined by an appraisal commissioned by Grantees at the time of extinguishment; provided, however, that the allocation of proceeds to Grantees shall be no less than _____% of the full fair market value of the Protected Property exclusive of the value of improvements. *[The Percentage Figure is determined by the relative value of the conservation restrictions as compared to the "unrestricted value" of the Protected Property at the time the Rights are purchased]*. Grantees shall use any such proceeds to preserve undeveloped and open space land in order to protect the aesthetic, agricultural, educational, scientific, forestry and natural resources of the State through non-regulatory means. Since the United States contributed to the purchase price of this Grant, Grantee VHCB shall share proceeds received by VHCB with the United States in accordance with Section VI(4) of this Grant.

6. In any deed or lease conveying an interest in all or part of the Protected Property, Grantor shall make reference to the conservation easement, restrictions, and obligations described herein and shall indicate that said easement and restrictions are binding upon all successors in interest in the Protected Property in perpetuity. Grantor shall also notify Grantees of the name(s) and address(es) of Grantor's successor(s) in interest.

7. Grantees shall be entitled to re-record this Grant, or to record a notice making reference to the existence of this Grant, in the Town of _____ Land Records as may be necessary to satisfy the requirements of the Record Marketable Title Act, 27 V.S.A., Chapter 5, Subchapter 7, including 27 V.S.A. §§603 and 605.

8. While title is herein conveyed to Grantees as tenants in common, the rights and interests described in this Grant, including enforcement of the conservation easement and restrictions, may be exercised by Grantees collectively, or by any single Grantee individually; provided, however, that court enforcement action by a single Grantee shall foreclose action on the same issue(s) by the other Grantees who shall be bound by the final determination.

9. The term "Grantor" includes the heirs, executors, administrators, successors, and assigns of the original Grantor, _____. The term "Grantees" includes the respective successors and assigns of the original Grantees, VLT, VAAFM and VHCB. The term "family" includes: (a) any spouse of Grantor and any persons related to Grantor by blood to the 4th degree of kinship or by adoption, together with spouses of family members, (b) a corporation, partnership or other entity which is wholly owned and controlled by Grantor or Grantor's family (as defined herein), (c) any estate of Grantor or Grantor's family, and (d) all owners of a Grantor corporation, partnership, trust or other entity who are related to each other by blood to the 4th degree of kinship or by adoption, together with spouses of family members.

10. Grantor shall pay all real estate taxes and assessments on the Protected Property and shall pay all other taxes, if any, assessed in lieu of or in substitution for real estate taxes on the Protected Property.

11. Grantor warrants that Grantor has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Protected Property.

12. Grantor shall hold harmless, indemnify and defend Grantees and the United States from and against any liabilities, claims and expenses, including reasonable attorney's fees to which Grantees or the United States may be subjected, including, but not limited to, those arising from any solid or hazardous waste/hazardous substance release or disposal or hazardous waste/hazardous substance cleanup laws or the actions or inactions of Grantor as owner or operator of the premises, or those of Grantor's agents.

13. If any Grantee takes legal title to Grantor's interest in the Protected Property, the Grantee acquiring title shall commit the monitoring and enforcement of the Grant to another Grantee until the Grantee acquiring title conveys title to a successor Grantor.

14. This Grant shall be governed by and construed in accordance with the laws of the State of Vermont. In the event that any provision or clause in this Grant conflicts with applicable law, such conflict shall not affect other provisions hereof which can be given effect without the conflicting provision. To this end the provisions of this Grant are declared to be severable.

INVALIDATION of any provision hereof shall not affect any other provision of this Grant.

TO HAVE AND TO HOLD said granted development rights, option to purchase, and a perpetual conservation easement and restrictions, with all the privileges and appurtenances

thereof, to the said Grantees, VERMONT LAND TRUST, INC., VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS, and VERMONT HOUSING AND CONSERVATION BOARD, their respective successors and assigns, to their own use and behoof forever, and the said Grantor, (Bold and Caps) _____, for ___ self and ___ heirs, executors, administrators, successors, and assigns, does covenant with the said Grantees, their successors and assigns, that until the ensealing of these presents, ___ is the sole owner of the premises, and has good right and title to convey the same in the manner aforesaid, that the premises are free from every encumbrance, except those of record, not intending hereby to reinstate any interest or right terminated or superseded by this Grant, operation of law, abandonment of 27 V.S.A. Ch. 5, Subch. 7; and ___ hereby engages to warrant and defend the same against all lawful claims whatever, except as aforesaid.

IN WITNESS WHEREOF, I set my hand and seal this ___ day of _____, 200_.

Signed, sealed, and delivered
In The Presence Of:

GRANTOR

Witness to ___

STATE OF _____
_____ COUNTY, ss.

At _____, this ___ day of _____, 200_, _____
personally appeared and ___ acknowledged this instrument, by _____ sealed and subscribed, to
be ___ free act and deed, before me.

Notary Public
My commission expires: 02/10/2007

Approved by the VERMONT HOUSING AND CONSERVATION BOARD:

Date

By: _____
Its Duly Authorized Agent

Approved by the NATURAL RESOURCES CONSERVATION SERVICE:

Date

By: _____
Its Duly Authorized Agent

STATE OF VERMONT

CHITTENDEN COUNTY, ss.

At _____, this ____ day of _____, 200__,
_____, duly authorized agent of Natural Resources Conservation Service,
personally appeared and he/she acknowledged this instrument, by him/her sealed and subscribed,
to be his/her free act and deed and the free act and deed of Natural Resources Conservation
Service, before me.

Notary Public
My commission expires: 02/10/2007

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SCHEDULE A
PROTECTED PROPERTY

Being all and the same lands and premises, including farm buildings, conveyed to Grantor by warranty deed of _____, dated _____, and recorded in Book _____, Page _____ of the _____ Land Records.

Excepted and excluded from this description of the Protected Property are the following _____ parcels of land:

- 1. A one-acre parcel..., all bearings are referenced to "Grid North."

[insert metes and bounds description from Farm Plan]

- 2. A one-acre parcel..., all bearings are referenced to "Grid North."

[insert metes and bounds description from Farm Plan]

[Drafter note: do we need ROFR?]

[Drafter note: do we need Right to Farm Covenant?]

Meaning and intending to include in this description of the Protected Property all of the land with the buildings and improvements thereon lying on both sides of Town Highway #__ (also known as _____), in the Town of _____, Vermont, except as excluded above, and generally described as containing ___ acres, more or less.

NOTICE: Unless otherwise expressly indicated, the descriptions in this Schedule A and in any subsequent Schedules are not based on a survey or subdivision plat. The Grantor and Grantees have used their best efforts to depict the approximate boundaries of the Protected Property and any excluded parcels, complexes or special treatment areas on a plan entitled "Vermont Land Trust - _____ Farm, Town of _____, _____ Co., VT, _____ 200_" signed by the Grantor and VLT (referred to throughout this Grant and its Schedules as "_____ Farm Plan"). The _____ Farm Plan is based upon Vermont Base Map digital orthophotos and other information available to VLT at the time of the Plan's preparation. Any metes and bounds descriptions included in the Schedules herein are approximate only. They are computer generated and are not the result of field measurements or extensive title research. The _____ Farm Plan and any metes and bounds descriptions herein are intended solely for the use of the Grantor and Grantees in establishing the approximate location of the areas described and for administering and interpreting the terms and conditions of this Grant. No monuments have been placed on the ground. The _____ Farm Plan is kept by VLT in its Stewardship Office. The _____ Farm Plan is not a survey and must not be used as a survey or for any conveyance or subdivision of the land depicted thereon.

Grantor and Grantees do not intend to imply any limitation on the area of land included in this

description, should a survey determine that additional land is also encumbered by the Grant. If, in the future, the Grantor or Grantees shall prepare a survey of the Protected Property, of any portion thereof, or of any excluded lands, and that survey is accepted by the other party or confirmed by a court, the descriptions in the survey shall control.

Reference may be made to the above described deed and record, and to the deeds and records referred to therein, in further aid of this description.

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**SCHEDULE B
FARMSTEAD COMPLEX**

The "Farmstead Complex" referred to in Section III(6) of this Grant contains ___ acres, more or less, and is more particularly described as follows, all bearings are referenced to "Grid North":

[Metes and bounds description drawn from "Farm Plan"]

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**SCHEDULE C
FLH COMPLEX**

The "FLH Complex" referred to in Section III(7) of this Grant contains ___ acres, more or less, and is more particularly described as follows, all bearings are referenced to "Grid North":

[Metes and bounds description drawn from "Farm Plan"]