

Regarding the application of David Wakefield, co-owner with Bertha Wakefield, of a 4.71-acre lot on Naser Road described in the Litchfield Land Records as Map 91, Block 14, Lot 6, to divide the land into two lots — shown as Parcel A (1.956 acres) and Parcel B (2.755 acres) on "Map Showing Division of Land for Conservation Purposes, prepared for David P. Wakefield Jr. and Bertha Anne Wakefield, Naser Road" by licensed surveyor Roy V. Cheney (January 2021) — to separate the co-owners' interests:

The Litchfield Planning and Zoning Commission finds that because the land will be used only for conservation and/or agricultural purposes (as required by conservation easements previously granted to the Litchfield Land Trust), this division does not constitute a "subdivision" as defined in Section 8-18 of the Connecticut General Statutes, which specifically exempts divisions of land for conservation and agricultural purposes.

Dated March , 2021

THE LITCHFIELD PLANNING AND ZONING COMMISSION

By \_\_\_\_\_

Its Chairperson

Parcel B  
Land Records Vol. 215, P. 225

CONSERVATION RESTRICTION AGREEMENT

This Conservation Restriction Agreement is made by and between DAVID P. WAKEFIELD, JR., of 145 Naser Road, Litchfield, CT 06759 and BERTHA ANNE WAKEFIELD, of 525 Orinda Avenue, Scotia, NY 12302, hereinafter called the Grantors, and THE LITCHFIELD LAND TRUST, INC., a non-profit Connecticut corporation located in Litchfield, Connecticut 06759, hereinafter called the Trust.

PRELIMINARY STATEMENT

The Grantors are the owners of property containing 2.755± acres located on the westerly side of Naser Road in Litchfield, Connecticut. Said land is more particularly shown and designated as "Parcel B" on a map entitled "MAP PREPARED FOR DAVID P. WAKEFIELD AND SUSAN G. WAKEFIELD NASER ROAD LITCHFIELD, CONNECTICUT SCALE 1"=100' MARCH 10, 1988, Revised October 19, 1992" Samuel P. Bertaccini, Jr. R.L.S. #10383, Litchfield-Marbledale, Connecticut.

The premises consist of a partially wooded parcel with a pond thereon having 475.89 feet more or less of frontage along Naser Road, containing thereon farm pastures, secondary brush growth and relatively natural habitat that is part of and contributes to the watershed and ecosystem of the Naugatuck River and further provides open space in the Town of Litchfield.

This Conservation Restriction Agreement is in furtherance of the following clearly delineated town, state, and federal governmental policies: In 1984 the Town of Litchfield adopted an official Plan of Development containing an environmental plan which has an explicit goal to: "Protect and improve the natural environment in which the community lies". (Introduction, Page 1).

In 1963, the Connecticut General Assembly declared "that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state." (P.A. 490, 1; C.G.S. Section 12-107a).

In 1971, the Connecticut General Assembly passed Public Act 173 (C.G.S. Sections 47-42a, -42c) which authorizes the creation and enforcement of: (1) conservation restrictions, "whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural farming, forest, or open space use..." This Conservation Restriction Agreement furthers the conservation purposes of C.G.S. 47-42a.

(1) The Premises are to be used as a natural area with multiple management objectives of land conservation, watershed protection and recreation. Good management practices shall be used to achieve the foregoing objectives.

A. The Grantors covenant for themselves, their legal representatives, heirs and assigns, that the Premises shall at all times, be held and used in compliance with the following restrictions as said restrictions may be limited or affected by the provisions of Paragraph B below:

NOW THEREFORE as an absolute gift, and in further consideration of the covenants, terms and conditions hereafter set forth, the Grantors hereby grant and convey unto the Trust and its successors and assigns in perpetuity a conservation restriction on, across, and over said premises and of the nature and character and to the extent hereafter set forth. The Trust hereby agrees to use its best efforts to enforce this agreement according to the intent of the parties hereto and in accordance with the following terms and conditions:

Both the Grantors and the Trust recognize the scenic, and natural watershed values of the Premises in their present state and have by this Conservation Restriction Agreement the common purpose of conserving the scenic and natural values of said Premises, and preventing the development of said Premises for any purposes or in any manner which conflict with the maintenance of said Premises in their scenic and natural condition for both this generation and future generations.

The Grantors are willing to grant to the Trust conservation restrictions on, over and across the said Premises, thereby restricting and limiting the use of said Premises, on the terms, conditions and purposes set forth herein and the Trust is willing to accept the responsibility for enforcing such restrictions.

The Trust has the power to "acquire, by gift, purchase, lease, or otherwise, real and personal property, both tangible and intangible, of every sort and description and to use such property in such manner as the directors of the corporation shall deem appropriate to carry out such purposes; and to hold property in trust for the uses and purposes specified." The Trust possesses the capability and intent to enforce this Conservation Restriction Agreement to uphold its purposes in perpetuity, as certified by the approval of its Board of Directors that the Premises meet the criteria of the Trust established to designate natural areas worthy of preservation by the Trust.

The Litchfield Land Trust, Inc. is a non-profit corporation organized to "promote for the benefit of the general public the preservation of the natural resources of the Town of Litchfield, including water resources, marshland, swamps, woodland and open spaces, and the plant and animal life therein and the preservation of unique historic and scenic sites".

(c) There shall be no removal, destruction or cutting of trees or plants, use of fertilizers, spraying with Biocides, except as conforms to good forestry and management practices currently demanded by the Soil and Water Conservation Service, and which will not encourage soil erosion into the streambelt, introduction of non-native animals, grazing of domestic

(b) There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads or change in the topography of the land in any manner excepting the maintenance of existing foot trails and tractor access. The location of any such foot trails or tractor access on the Premises shall be permitted to the extent that they do not interfere with or have any adverse impact upon the natural features and values for which the property is being protected pursuant to this agreement.

(a) No building, facility or other structures, including but not limited to trailers or advertising signs shall be erected or constructed on the Premises, including but not limited to camping shelters and bathhouses without permanent foundations or utilities, picnic tables. Grantee shall have the right to approve the location of such permitted structures, which approval shall not be unreasonably withheld.

(7) Without prior express written consent from the Grantee, on the Premises:

(6) There shall be no operation of snowmobiles, dunebuggies, motorcycles, all-terrain vehicles, or any other types of motorized vehicles except for tractors and agricultural vehicles and implements when soils are dry or frozen.

(5) There shall be no manipulation or alteration of natural water courses or wetlands, nor shall there be activities conducted on the Premises which would be detrimental to water purity, or which could alter natural water level and/or flow. Notwithstanding the above, the removal of beaver dams and windthrown trees to maintain water flow is allowed.

(4) There shall be no dumping of ashes, trash, garbage, or other unsightly or offensive material, and no changing of the topography through the placing of soil or other substances or material such as land fill or dredging spoils, nor shall activities be conducted on the Premises which could cause erosion or siltation on the Premises.

(3) All activities on the Premises shall incorporate erosion and sedimentation control measures to minimize any potential adverse effects on wetlands, streams and water quality, soil conservation and fish and wildlife habitat.

(2) No use shall be made of the Premises, and no activity shall be permitted or conducted thereon which is or may be inconsistent with the perpetual protection and preservation of the land for the foregoing objectives.

(7) the right to sell, give or otherwise convey all or any portion of portions of the Premises or any remaining interest therein, provided such conveyance is subject to the terms of this Agreement.

(6) the right to maintain the existing fire pond and its dry hydrant and the right to perform drainage correction work and drainage improvements at or near existing or future drainage ways adjacent to Naser Road to prevent or correct flooding, ponding, erosion, sedimentation or other damage resulting from said drainage;

(5) the right to improve wildlife habitat through the creation and placement of improvements including but not limited to bird houses, brush piles, sunning logs and the planting of specific habitat vegetation;

(4b) the right to construct accessory farm buildings including but not limited to barns, sheds and animal shelters;

(4a) the right to use and maintain, and not enlarge, an existing building currently being used as an automobile garage. This building may also be used for agricultural purposes, but not as a dwelling.

(3) the right to use the Premises for all purposes not inconsistent with this Conservation Restriction Agreement and all uses incidental to the permitted recreational and agricultural uses, specifically including but not limited to the raising of animals and the cultivation of crops including silviculture;

(2) the right to privacy;

(1) all customary rights of ownership not expressly relinquished, conveyed or proscribed by the foregoing restrictions, including but not limited to the right of exclusive possession of the Premises;

B. Notwithstanding any provision of this instrument to the contrary, the grantors for themselves, their legal representatives, heirs and assigns, hereby reserve all other customary rights and privileges of ownership including:

(9) There shall be no hunting or trapping conducted on the premises, except in case of danger to human health or the health of farm and other domestic animals or in the case of severe or persistent destruction of crops including tree plantings.

(8) There shall be no commercial or industrial activities conducted on the Premises.

animals, or disturbance or change in the natural habitat in any manner, with the exception that limited forestry management activities are allowed to construct and maintain foot trails and tractor access to remove fallen and diseased trees, utilizing good forestry practices.



(3) The Trust may assign its rights and obligations under this Agreement only to an organization that, at the time of such transfer or assignment is an entity described in Section 170(h)(3), of the Internal Revenue Code of the United States, as it presently exists, or as the same may from time to time be amended and that such entity is also authorized to acquire and hold conservation easements under Connecticut general statutes,

(2) The Trust, its representatives, designee, successor or assigns, shall have the right to enter the property across other lands of the Grantors at reasonable times with reasonable notice, for the purpose of inspecting said property to determine if the Grantors, their personal representatives, heirs or assigns, are complying with the terms, conditions, restrictions and purpose of this Agreement. The Trust shall inspect the Premises once per year. The general public shall have no right of access to the easement property.

(1) This Conservation Restriction Agreement shall be deemed to be a "conservation restriction" as defined by Connecticut general statutes, Section 47-42a. The parties hereto agree that monetary damages would not be an adequate remedy for breach of any of these terms, conditions or restrictions, and therefore, in the event that the Grantors, their personal representatives, heirs or assigns violate or breach any of these terms, conditions, or restrictions, or their personal representatives, heirs, or assigns, addressed to them at their last known post office address, institute a suit to enjoin such violation by ex parte, temporary or permanent injunction, and to require the restoration of the property to its prior condition. The Trust shall also have the right to enforce by action at law or equity the restrictions and covenants herein contained. Reasonable costs incurred by the Grantee in enforcing the terms of this easement against Grantors, including without limitation, costs of suit and attorney's fees, and costs of restoration necessitated by the Grantor's violation of the terms of this Easement shall be borne by the Grantors. If Grantors prevail in any suit to enforce the terms of this Easement, reasonable costs of suit, including without limitation, attorney's fees, shall be borne by the Grantee. The Court which enters judgment shall have sole discretion to determine "reasonable costs". Any delay by the Trust in enforcement of any restriction or right under this Agreement shall not constitute a waiver of such restriction and right, and Grantors for themselves, their heirs and assigns, hereby waives any defense of laches with respect to any delay by the Trust, their successors or assigns, in acting to enforce any restriction to exercise any right under this agreement.

C. This agreement shall be subject to the following additional provisions.  
Nothing contained in this Agreement shall give or grant to the public now or in the future a right to enter upon or to use the Premises or any portion thereof.

(6) If a subsequent, unexpected change in the conditions of or surrounding the Premises make impossible the continued use of the Premises for the conservation purposes of this Agreement, the restrictions hereby imposed by this Agreement may be extinguished by judicial proceedings in a court of competent jurisdiction initiated jointly by mutual consent of the Grantors or their successors in interest and the Trust or its successor in interest, provided that the proceeds of any sale or exchange of the Premises or any portion thereof, subsequent to the extinguishment of these restrictions by judicial proceedings, shall be divided between the Grantors and the Trust, or their respective successors, in proportion to the values of their respective rights in the Premises in accordance with the terms of this paragraph; and in such event the Trust agrees to apply its share of

(5) If any provision of this Agreement or the covenants and restrictions contained herein shall be held to be unenforceable by a court of competent jurisdiction, this instrument shall be construed as if such provision had not been included herein. If any provision hereof is ambiguous or shall be subject to two or more interpretations, one or more of which would render such provision invalid or inconsistent with the overall conservation purposes of this Agreement, then such provision shall be given the interpretation that would render it valid and would be consistent with the conservation purposes of this Agreement.

(4) The Grantors further agree to hold the Trust harmless against, and to indemnify it for, any liability resulting from injury to persons or damage to property arising out of any act or omission with respect to the use of the Premises, lawful or otherwise, by any person, except for injury or damage proximately caused by the negligence or intentional acts of the Trust or its agents.

- (a) The Nature Conservancy
- (b) The Trust for Public Land
- (c) any other entity having similar purposes, qualifications, and capabilities to which such rights and duties may be awarded by a court of competent jurisdiction under the doctrine of cy pres, provided that at the time of such acceptance or award such entity is an agency or organization described in Section 170(h)(3), of the Internal Revenue Code. If any assignee shall be dissolved, or shall abandon this Agreement or the rights of enforcement herein set forth, or if proceedings are instituted for condemnation or this Agreement, the Agreement and rights of enforcement shall revert to the Trust.

section 47-42a and further provided that the purposes of this Conservation Restriction Agreement are upheld. If at any time it becomes impossible for the Trust, its successors or assigns, to ensure compliance with the restrictions and covenants contained herein, or the Trust shall cease to exist, then its rights and duties hereunder shall become vested in and fall upon the following named entities to the extent that they shall evince acceptance of the same, in the following order:

The Litchfield Land Trust, Inc.  
By: Graham F. Thompson, Jr.  
Its President

Joan K. Cook  
Peter A. Litwin

David P. Wakefield, Jr.  
Bertha Anne Wakefield

Witnessed by:  
Joan K. Cook  
Peter A. Litwin  
As to DPW + 3AW

Signed this 28th day of December, 1992.

(9) The Grantors and Trust, hereby agree that the obligation to pay any real estate taxes or assessments levied by competent authorities on the premises and the obligation to maintain and insure the Premises, shall remain the responsibility of the Grantors herein, their heirs and assigns, and not the responsibility of the Trust or its successors.

(8) The restrictions herein set forth shall run with the land in perpetuity and bind the Grantors, their heirs, successors and assigns. The Grantors agree to incorporate the terms, conditions, restrictions and purposes of this Agreement in any subsequent deed or other legal instrument by which they divest themselves of either fee simple title to, or their possessory interest in, the premises or any portion thereof.

(7) Grantors covenant and represent that Grantors are seized of the premises in fee simple and that Grantors have not done or suffered to be done any action that would encumber the title of the premises which are subject to this Conservation Restriction Agreement.

such proceeds in a manner consistent with the conservation purposes of this Agreement. The Grantors agree that the donation of the restrictions in this Agreement give right to a property right, immediately vested in the Grantee, which for purposes of any subsequent division of the proceeds of a sale or exchange of the Premises as provided in this paragraph, shall have a market value equal to that portion of the fair market value of the entire Premises (including this Conservation Restriction Agreement) which bears the same ratio to such fair market value of the entire Premises as the amount of the Grantor's charitable contribution on account of the donation of this Conservation Restriction Agreement, as determined under Section 170 of the Internal Revenue Code of the United States, bears to the fair market value of the entire Premises on the date of donation.



*Lucy M. Jordan*  
Town Clerk

My comm. exp. 3/31/1993

JOAN K. COOK  
NOTARY PUBLIC

On this the 28th day of December, 1992, before me, personally appeared Graham F. Thompson, Jr., President of Litchfield Land Trust, Inc., signer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of the Litchfield Land Trust, Inc.

STATE OF CONNECTICUT  
)  
ss. Litchfield December 28, 1992  
(COUNTY OF LITCHFIELD)

Peter A. Litchwin  
Commissioner of the Superior Court

On this the 26th day of December, 1992, before me personally appeared Bertha Anne Wakefield, signer of the foregoing instrument, and acknowledged the same to be her free act and deed.

STATE OF CONNECTICUT  
)  
ss. Litchfield, December 26, 1992  
(COUNTY OF LITCHFIELD)

Peter A. Litchwin  
Commissioner of the Superior Court

On this the 26th day of December, 1992, before me personally appeared David P. Wakefield, Jr., signer of the foregoing instrument, and acknowledged the same to be his free act and deed.

STATE OF CONNECTICUT  
)  
ss. Litchfield December 26, 1992  
(COUNTY OF LITCHFIELD)

Parcel A  
Land Records V. 230 P. 128

CONSERVATION RESTRICTION AGREEMENT

This Conservation Restriction Agreement is made by and between DAVID P. WAKEFIELD, JR., of 145 Naser Road, Litchfield, CT 06759 and BERTHA ANNE WAKEFIELD, of 525 Orinda Avenue, Scotia, NY 12302, hereinafter called the Grantors, and THE LITCHFIELD LAND TRUST, INC., a non-profit Connecticut corporation located in Litchfield, Connecticut 06759, hereinafter called the Trust.

PRELIMINARY STATEMENT

The Grantors are the owners of property containing 1.9564 acres located on the westerly side of Naser Road in Litchfield, Connecticut. Said land is more particularly shown and designated as "Parcel A" on a map entitled "MAP PREPARED FOR DAVID P. WAKEFIELD AND SUSAN G. WAKEFIELD NASER ROAD LITCHFIELD, CONNECTICUT SCALE 1"=100' MARCH 10, 1988, Revised October 19, 1992" Samuel P. Bertaccini, Jr. R.L.S. #10383, Litchfield-Marbledale, Connecticut.

The premises consist of a partially wooded parcel having 679.59 feet more or less of frontage along Naser Road, containing thereon a barn and outbuilding, an old pond site, farm pastures, secondary brush growth and relatively natural habitat that is part of and contributes to the watershed and ecosystem of the Naugatuck River and further provides open space in the Town of Litchfield.

This Conservation Restriction Agreement is in furtherance of the following clearly delineated town, state, and federal governmental policies:

In 1984 the Town of Litchfield adopted an official plan of Development containing an environmental plan which has an explicit goal to: "protect and improve the natural environment in which the community lies". (Introduction, page 1).

In 1963, the Connecticut General Assembly declared "that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state." (P.A. 490, 1; C.G.S. Section 12-107a).

In 1971, the Connecticut General Assembly passed Public Act 173 (C.G.S. Sections 47-42a, -42c) which authorizes the creation and enforcement of: (1) conservation restrictions, "whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural farming, forest, or open space use..." This Conservation Restriction Agreement furthers the conservation purposes of C.G.S. 47-42a.

The Litchfield Land Trust, Inc. is a non-profit corporation organized to "promote for the benefit of the general public the preservation of the natural resources of the Town of Litchfield, including water resources, marshland, swamps, woodland and open spaces, and the plant and animal life therein and the preservation of unique historic and scenic sites".

The Trust has the power to "acquire, by gift, purchase, lease, or otherwise, real and personal property, both tangible and intangible, of every sort and description and to use such property in such manner as the directors of the corporation shall deem appropriate to carry out such purposes; and to hold property in trust for the uses and purposes specified." The Trust possesses the capability and intent to enforce this Conservation Restriction Agreement to uphold its purposes in perpetuity, as certified by the approval of its Board of Directors that the Premises meet the criteria of the Trust established to designate natural areas worthy of preservation by the Trust.

The Grantors are willing to grant to the Trust conservation restrictions on, over and across the said Premises, thereby restricting and limiting the use of said Premises, on the terms, conditions and purposes set forth herein and the Trust is willing to accept the responsibility for enforcing such restrictions.

Both the Grantors and the Trust recognize the scenic, and natural watershed values of the Premises in their present state and have by this Conservation Restriction Agreement the common purpose of conserving the scenic and natural values of said Premises, and preventing the development of said Premises for any purposes or in any manner which conflict with the maintenance of said Premises in their scenic and natural condition for both this generation and future generations.

NOW THEREFORE as an absolute gift, and in further consideration of the Covenants, terms and conditions hereafter set forth, the Grantors hereby grant and convey unto the Trust and its successors and assigns in perpetuity a conservation restriction on, across, and over said premises and of the nature and character and to the extent hereafter set forth. The Trust hereby agrees to use its best efforts to enforce this agreement according to the intent of the parties hereto and in accordance with the following terms and conditions:

A. The Grantors covenant for themselves, their legal representatives, heirs and assigns, that the Premises shall at all times, be held and used in compliance with the following restrictions as said restrictions may be limited or affected by the provisions of Paragraph B below:

(1) The Premises are to be used as a natural area with multiple management objectives of land conservation, watershed protection and recreation. Good management practices shall be used to achieve the foregoing objectives.

(2) No use shall be made of the Premises, and no activity shall be permitted or conducted thereon which is or may be inconsistent with the perpetual protection and preservation of the land for the foregoing objectives.

(3) All activities on the Premises shall incorporate erosion and sedimentation control measures to minimize any potential adverse effects on wetlands, streams and water quality, soil conservation and fish and wildlife habitat.

(4) There shall be no dumping of ashes, trash, garbage, or other unsightly or offensive material, and no changing of the topography through the placing of soil or other substances or

material such as land fill or dredging spoils, nor shall activities be conducted on the Premises which could cause erosion or siltation on the Premises.

(5) Except the right to restore farm pond, as noted below, there shall be no manipulation or alteration of natural water courses or wetlands, nor shall there be activities conducted on the premises which would be detrimental to water purity, or which could alter natural water level and/or flow. Notwithstanding the above, the removal of beaver dams and windthrown trees to maintain water flow is allowed.

(6) There shall be no operation of snowmobiles, dunebuggies, motorcycles, all-terrain vehicles, or any other types of motorized vehicles except for a) tractors and agricultural vehicles and implements when soils are dry or frozen, and b) emergency vehicles.

(7) Without prior express written consent from the Grantee, on the Premises:

(a) No building, facility or other structures, including but not limited to trailers or advertising signs shall be erected or constructed on the Premises, including but not limited to camping shelters and bathhouses without permanent foundations or utilities, picnic tables. Grantee shall have the right to approve the location of such permitted structures, which approval shall not be unreasonably withheld.

(b) There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads or change in the topography of the land in any manner excepting the maintenance of existing foot trails and tractor access. The location of any such foot trails or tractor access on the Premises shall be permitted to the extent that they do not interfere with or have any adverse impact upon the natural features and values for which the property is being protected pursuant to this agreement.

(c) There shall be no removal, destruction or cutting of trees or plants, use of fertilizers, spraying with Biocides, except as conforms to good forestry and management practices

currently demanded by the Soil and Water Conservation Service, and which will not encourage soil erosion into the streambed, introduction of non-native animals, grazing of domestic animals, or disturbance or change in the natural habitat in any manner, with the exception that limited forestry management activities are allowed to construct and maintain foot trails and tractor access to remove fallen and diseased trees, utilizing good forestry practices.

(8) There shall be no commercial or industrial activities conducted on the Premises.

(9) There shall be no hunting or trapping conducted on the premises, except in case of danger to human health or the health of farm and other domestic animals or in the case of severe or persistent destruction of crops including tree plantings.

B. Notwithstanding any provision of this instrument to the contrary, the Grantors for themselves, their legal representatives, heirs and assigns, hereby reserve all other customary rights and privileges of ownership including:

(1) all customary rights of ownership not expressly relinquished, conveyed or proscribed by the foregoing restrictions, including but not limited to the right of exclusive possession of the Premises;

(2) the right to privacy;

(3) the right to use the Premises for all purposes not inconsistent with this Conservation Restriction Agreement and all uses incidental to the permitted recreational and agricultural uses, specifically including but not limited to the raising of animals and the cultivation of crops including silviculture;

(4a) the right to use and maintain, and not enlarge, an existing barn and outbuilding. These buildings may be used for agricultural purposes, for the garaging of vehicles, and for general workshop purposes, but not as dwellings.

(4b) the right to construct accessory farm buildings including but not limited to barns, sheds and animal shelters;

(5) the right to improve wildlife habitat through the creation and placement of improvements including but not limited to bird houses, brush piles, sunning logs and the planting of specific habitat vegetation;

(6) the right to reconstruct a previously existing pond, with the possible addition of a dry hydrant, the right to direct access to Naser Road during reconstruction, the right to leave dredging spoils around the perimeter of pond and thereafter the right to maintain the fire pond and dry hydrant and the right to perform drainage correction work and drainage improvements at or near existing or future drainage ways adjacent to Naser Road to prevent or correct flooding, ponding, erosion, sedimentation or other damage resulting from said drainage;

(7) the right to sell, give or otherwise convey all or any portion of portions of the Premises or any remaining interest therein, provided such conveyance is subject to the terms of this Agreement.

Nothing contained in this Agreement shall give or grant to the public now or in the future a right to enter upon or to use the Premises or any portion thereof.

C. This agreement shall be subject to the following additional provisions.

(1) This Conservation Restriction Agreement shall be deemed to be a "conservation restriction" as defined by Connecticut General Statutes, Section 47-42a. The parties hereto agree that monetary damages would not be an adequate remedy for breach of any of these terms, conditions or restrictions, and therefore, in the event that the Grantors, their personal representatives, heirs or assigns violate or breach any of these terms, conditions, or restrictions the Trust or its successors or assigns, may, after notice to the Grantors, or their personal representatives, heirs, or assigns, addressed to them at their last known post office address, institute a suit to enjoin such violation by ex parte, of the property to its prior condition. The Trust shall also have the right to enforce by action at law or equity the restrictions and covenants herein contained. Reasonable costs incurred by the



Grantee in enforcing the terms of this easement against Grantors, including without limitation, costs of suit and attorney's fees, and costs of restoration necessitated by the grantor's violation of the terms of this Easement shall be borne by the grantors. If Grantors prevail in any suit to enforce the terms of this Easement, reasonable costs of suit, including without limitation, attorney's fees, shall be borne by the grantee. The Court which enters judgment shall have sole discretion to determine "reasonable costs". Any delay by the Trust in enforcement of any restriction or right under this Agreement shall not constitute a waiver of such restriction and right, and Grantors for themselves, their heirs and assigns, hereby waives any defense of laches with respect to any delay by the Trust, their successors or assigns, in acting to enforce any restriction to exercise any right under this agreement.

(2) The Trust, its representatives, designee, successor or assigns, shall have the right to enter the property across other lands of the Grantors at reasonable times with reasonable notice, for the purpose of inspecting said property to determine if the Grantors, their personal representatives, heirs or assigns, are complying with the terms, conditions, restrictions and purpose of this Agreement. The Trust shall inspect the premises once per year. The general public shall have no right of access to the easement property.

(3) The Trust may assign its rights and obligations under this Agreement only to an organization that, at the time of such transfer or assignment is an entity described in Section 170(h)(3), of the Internal Revenue Code of the United States, as it presently exists, or as the same may from time to time be amended and that such entity is also authorized to acquire and hold conservation easements under Connecticut general statutes, section 47-42a and further provided that the purposes of this Conservation Restriction Agreement are upheld. If at any time it becomes impossible for the Trust, its successors or assigns, to ensure compliance with the restrictions and covenants contained herein, or the Trust shall cease to exist, then its rights and duties hereunder shall become vested in and fall upon the following named entities to the extent that they shall evince acceptance of the same, in the following order:

- (a) The Nature Conservancy
- (b) The Trust for Public Land
- (c) any other entity having similar purposes, qualifications, and capabilities to which such rights and duties may be awarded by a court of competent jurisdiction under the doctrine of cy pres, provided that at the time of such acceptance or award such entity is an agency or organization described in Section 170(h)(3), of the Internal Revenue Code. If any assignee shall be dissolved, or shall abandon this Agreement or the rights of enforcement herein set forth, or if proceedings are instituted for condemnation of this Agreement, the Agreement and rights of enforcement shall revert to the Trust.

(4) The Grantors further agree to hold the Trust harmless against, and to indemnify it for, any liability resulting from injury to persons or damage to property arising out of any act or omission with respect to the use of the premises, lawful or otherwise, by any person, except for injury or damage proximately caused by the negligence or intentional acts of the Trust or its agents.

(5) If any provision of this Agreement or the covenants and restrictions contained herein shall be held to be unenforceable by a court of competent jurisdiction, this instrument shall be construed as if such provision had not been included herein. If any provision hereof is ambiguous or shall be subject to two or more interpretations, one or more of which would render such provision invalid or inconsistent with the overall conservation purposes of this Agreement, then such provision shall be given the interpretation that would render it valid and would be consistent with the conservation purposes of this Agreement.

(6) If a subsequent, unexpected change in the conditions of or surrounding the premises make impossible the continued use of the premises for the conservation purposes of this Agreement, the restrictions hereby imposed by this Agreement may be extinguished by judicial proceedings in a court of competent jurisdiction initiated jointly by mutual consent of the grantors or their successors in interest and the Trust or its successor in interest, provided that the proceeds of any sale or exchange of the premises

or any portion thereof, subsequent to the extinguishment of these restrictions by judicial proceedings, shall be divided between the grantors and the Trust, or their respective successors, in proportion to the values of their respective rights in the premises in accordance with the terms of this paragraph; and in such event the Trust agrees to apply its share of such proceeds in a manner consistent with the conservation purposes of this Agreement. The grantors agree that the donation of the restrictions in this Agreement give right to a property right, immediately vested in the grantees, which for purposes of any subsequent division of the proceeds of a sale or exchange of the premises as provided in this paragraph, shall have a market value equal to that portion of the fair market value of the entire premises (including this Conservation Restriction Agreement) which bears the same ratio to such fair market value of the entire premises as the amount of the grantor's charitable contribution on account of the donation of this Conservation Restriction Agreement, as determined under Section 170 of the Internal Revenue Code of the United States, bears to the fair market value of the entire premises on the date of donation.

(7) Grantors covenant and represent that grantors are seized of the premises in fee simple and that grantors have not done or suffered to be done any action that would encumber the title of the premises which are subject to this Conservation Restriction Agreement.

(8) The restrictions herein set forth shall run with the land in perpetuity and bind the grantors, their heirs, successors and assigns. The grantors agree to incorporate the terms, conditions, restrictions and purposes of this Agreement in any subsequent deed or other legal instrument by which they divest themselves of either fee simple title to, or their possessory interest in, the premises or any portion thereof.

(9) The grantors and Trust, hereby agree that the obligation to pay any real estate taxes or assessments levied by competent authorities on the premises and the obligation to maintain and insure the premises, shall remain the responsibility of the grantors herein, their heirs and assigns, and not the responsibility of the Trust or its successors.

Signed this day of 1995.

David P. Wakefield, Jr.  
Bertha Anne Wakefield  
The Litchfield Land Trust, Inc.  
By Charles F. Newman

Witnessed by:  
James M. [Signature]  
Peter A. Litwin  
Blair F. [Signature]  
John A. [Signature]

STATE OF CONNECTICUT )  
COUNTY OF LITCHFIELD )  
ss. Litchfield

On this the 2nd day of December, 1995, before me personally appeared David P. Wakefield, Jr., signer of the foregoing instrument, and acknowledged the same to be his free act and deed.

[Signature]  
Peter A. Litwin  
Commissioner of the Superior Court

STATE OF CONNECTICUT )  
COUNTY OF LITCHFIELD )  
ss. Litchfield

On this the 2nd day of December, 1995, before me personally appeared Bertha Anne Wakefield, signer of the foregoing instrument, and acknowledged the same to be her free act and deed.

[Signature]  
Commissioner Superior Ct.  
NOTARY PUBLIC

STATE OF CONNECTICUT )  
COUNTY OF LITCHFIELD )  
ss. Litchfield

On this the 2nd day of December, 1995, before me, personally appeared Greene Thompson of Litchfield Land Trust, Inc., signer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of the Litchfield Land Trust, Inc.

[Signature]  
NOTARY PUBLIC  
Blair F. [Signature]

Received for record Dec. 5th, 1995 at 10:15 A.M.

John M. [Signature]  
Town Clerk