

CONSERVATION/OPEN SPACE AGREEMENT

THIS INSTRUMENT, made this 6th day of January, 2016, by KyToad, LLC, a Vermont Limited Liability Company, of Ferrisburgh, Vermont (hereinafter referred to as "Grantor") and the Town of Charlotte, a municipal corporation situated in Chittenden County, Vermont (hereinafter referred to as "Municipality"), acting by and through its Select Board,

WITNESSETH:

WHEREAS, the Grantor is the Owner of certain lands in the Municipality which are all and the same lands and premises conveyed to KyToad, LLC, by Quit Claim Deed of People's United Bank dated January 31, 2013, and recorded at Book 205 Pages 326-327 Charlotte Land Records, as well as all and the same lands and premises conveyed to KyToad, LLC, by Warranty Deed of Thomas W. Williams, Jr., and Zoe Williams dated January 31, 2013, and recorded at Book 205 Pages 330-331 Charlotte Land Records; and,

WHEREAS, the Grantor are developing said lands as a planned residential development ("PRD"), incorporating well-planned residential, scenic, wildlife habitat, agricultural, recreational and open space uses; and,

WHEREAS, it is the intent of the Grantor that said PRD consist of 2 residential lots, Lot 2 and Lot 2A, as shown on a plat entitled "Final Plat' Proposed PRD Subdivision Of The KyToad LLC Property, 3795 & 3825 Ethan Allen Highway, Charlotte, VT." dated August 14, 2013, last revised December 30, 2015, prepared by G. E. Bedard, Inc., and recorded at Map Slide _____ Page _____ Charlotte Land Records; and,

WHEREAS, the Grantor has received final subdivision approval and PRD approval from the Municipality's Planning Commission for its development pursuant to the decision rendered by the Municipality's Planning Commission on Subdivision Application # PC-15-03, which decision is recorded at Book 219 Pages 104-108 Charlotte Land Records; and,

WHEREAS, the Grantor, in presenting its proposal to the Municipality's Planning Commission, agreed that certain lands, described below and in Exhibit A attached hereto, would be devoted to scenic, wildlife habitat, preservation, agricultural, recreational and open space uses, in consideration for the final subdivision and PRD approvals; and,

WHEREAS, the Grantor and the Municipality recognize the value of retaining the rural character of said lands, described below and in Exhibit A attached hereto, and preserving their use as scenic, wildlife habitat, preservation, recreational and open space uses, and in so doing furthering their aesthetic, ecologic and agricultural value; and,

WHEREAS, Title 10, Chapter 155, of Vermont Statutes Annotated, permits Vermont municipalities to acquire interests in land in the nature of conservation easements.

NOW, THEREFORE, the Grantor, for and in consideration of the grant of subdivision and PRD approval by the Municipality's Planning Commission, and based upon the above-stated

facts, premises and mutual covenants, terms, conditions and restrictions herein contained, and as an absolute and unconditional transfer, do hereby freely give, grant, convey and confirm unto the Municipality, its successors and assigns forever, a Conservation and Open Space Easement and restrictions over that property described on the Plat as "Open Space Area 6.42 Acres +/- (hatched area)", on Lot 2 (hereinafter referred to as the "Restricted Property") consisting of the following:

1. The right of the official representatives of the Municipality, in a reasonable manner and at reasonable times, to enter upon, inspect and, as necessary and appropriate in the reasonable judgment of Municipality, enforce this Agreement pertaining to the Restricted Property;
2. The right of the public to view the Restricted Property from public ways, streets and areas, in its condition as agricultural land, open space, recreational and wildlife habitat;
3. In furtherance of the foregoing affirmative rights, the Grantor, for itself and its successors and assigns, make the following covenants, which shall run with and bind the Restricted Property in perpetuity, for the benefit of the Municipality, acting by and through its official representatives, except as modified or amended as provided in this Agreement as follows:
 - a. There shall be no construction or placing of any new buildings or structures (except as provided in 3d below) of any kind, temporary or permanent, on the Restricted Property, except that the Grantor, and its successors and assigns, shall have the right to construct on the Restricted Property structures for agricultural and farming purposes.
 - b. The Grantor, and its successors and assigns, shall have the right to use the Restricted Property for agricultural and farming purposes, including cultivation of crops and animal husbandry, and open space recreational uses.
 - c. The Grantor, and its successors and assigns, shall have the right to use the Restricted Property for open space educational uses.
 - d. There shall be no 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 on the Restricted Property, except as may be allowed under 3i below or as shown on the Plat or as otherwise allowed herein. All activities on the Restricted Property shall be conducted in conformance with all state, federal and local permits issued for the property.
 - e. The Grantor, and its successors and assigns, shall have the right to maintain the Restricted Property in an orderly and presentable manner, to plant shrubbery from time to time and to keep the grass trimmed and to take any other normal maintenance action in maintaining the pleasant appearance of the Restricted Property.

f. There shall be no dumping or burying of ashes, trash, garbage or other unsightly or offensive material on the Restricted Property.

g. Aside from the use of motor vehicles along the roadways and driveways in the Restricted Property, and the use of farm equipment and machinery upon the Restricted Property, there shall be no operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or other types of motorized vehicles on the Restricted Property.

h. There shall be no activities or uses on the Restricted Property which shall be or could be unreasonably detrimental to drainage, flood control, water conservation, fish and wildlife or habitat preservation.

i. Notwithstanding anything herein stated to the contrary, the Grantor, and its successors and assigns, shall have the right to use the Restricted Property as follows:

- A. Underground utility lines, including, but not limited to, electric, power, telephone, communication, cable tv, water, sewer, etc., lines and sewage disposal systems and force mains and appurtenances (which may be above ground if necessary), and roadways and driveways for uses permitted on the Restricted Property may be located on the Restricted Property.
- B. Sewage disposal systems and force mains and appurtenances (which may be above ground if necessary), and underground utility lines, including, but not limited to, electric, power, sewer, etc., lines appurtenant thereto, for the benefit of the existing house or any replacement structure on Lot 2A, and fire ponds and appurtenances (which may be above ground if necessary), may be located on the Restricted Property.
- C. Public or private noncommercial recreation trails for walking, horseback riding, skiing and other non-motorized recreational activities may be located on the Restricted Property.
- D. Pursuant to and in accordance with written approvals obtained from Municipality's Planning Commission.

Municipality, and the Municipality's designees and assigns, is hereby granted the right to enforce, by injunction or proceedings at law or in equity, the covenants hereinabove set forth, in a court of competent jurisdiction. In any action to enforce the terms, conditions and restrictions herein set forth, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees. The Municipality may assign its rights or delegate its duties hereunder to a suitable organization to effectuate the purposes and intents of this Agreement upon notice to the Grantor, its successor and assigns.

The Grantor, for itself and its successors and assigns, agrees to pay real estate taxes or other assessments levied by competent authorities on the Restricted Property in accordance with 10

V.S.A. 6306(b) as now constituted or hereafter amended, and to relieve the Municipality from responsibility for maintaining the Restricted Property.

The Grantor and Municipality agree that the terms, conditions and covenants set forth in this Agreement may be amended and modified from time to time upon application by the Grantor, its successors or assigns, and upon written approval of the Municipality's Planning Commission and Select Board.

The Grantor agrees that the terms, conditions, restrictions, and purposes of this grant will be inserted by reference in any subsequent deed, or other legal instrument, by which the Grantor divests itself of either fee simple title or possessory interest in the Restricted Property or in any of the property depicted in the Plat.

TO HAVE AND TO HOLD the said Conservation and Open Space Agreement easement and restrictions unto the Municipality and its successors and assigns forever.

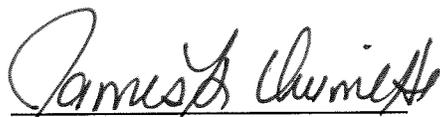
The grant of easements, restrictions and covenants herein is made pursuant to the authority set forth in Title 10, Chapter 155, V.S.A., as presently enacted and from time to time hereinafter amended, and that all of the provisions of said Chapter shall be binding upon the Grantor, and its successors and assigns, and upon the Restricted Property, and shall inure to the benefit of the Municipality, and its successors and assigns.

If any part of this Agreement shall be decreed to be invalid by any court of competent jurisdiction, such decree shall not be interpreted so as to invalidate the remainder of this Agreement.

Although this Conservation/Open Space Agreement will benefit the public as provided above, nothing herein shall be construed to convey a right to the public of access to or use of the Restricted Property, and the Grantor, for itself and its successors and assigns, shall retain exclusive right to use the Restricted Property for all purposes not inconsistent with this Agreement.

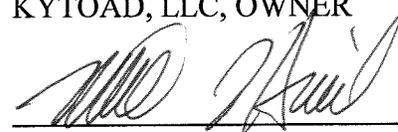
IN WITNESS WHEREOF, the parties hereto set their hands this 6th day of January, 2016.

IN THE PRESENCE OF:



KYTOAD, LLC, OWNER

By:



MICHAEL J. HINSDALE,
Duly Authorized Agent

STATE OF VERMONT
ADDISON COUNTY, SS.

At Vergennes, in said County, on this 6th day of January, 2016, Michael J. Hinsdale, Duly Authorized Agent of KYTOAD, LLC, personally appeared and he acknowledged this instrument, by him sealed and subscribed to his free act and deed, and the free act and deed of KYTOAD, LLC.

Before me, James A. Ouimette
Notary Public
My commission expires 02/10/2019

IN THE PRESENCE OF:

TOWN OF CHARLOTTE

By: _____
Its Duly Authorized Agent

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

At _____, on the ___ day of January, 2016, personally appeared, the Duly Authorized Agent of the Town of Charlotte and (he/she) acknowledged this instrument, by (him/her) sealed and subscribed, to be (his/her) free act and deed as such Duly Authorized Agent and the free act and deed of the Town of Charlotte.

Before me, _____
Notary Public
My commission expires 02/10/2019