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TOWN OF MOREAU
BUILDING DEPARTMENT

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT AGREEMENT is made and entered into this ____ day of _____, 2024 between James and Suzanne Hooper (hereinafter referred to as the "Grantor") and THE TOWN OF MOREAU, a municipal corporation of the State of New York, (hereinafter referred to as the "Town" or "Grantee").

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WITNESSETH

WHEREAS, the Grantor is the owner of real property set out and designated as "Lot Number 5 shown on a Map of _____ made by _____, dated _____ and filed in the Saratoga County Clerk's Office on _____, as Map _____,"

Attached hereto and marked Exhibit "A" is a description of the real property making up the Open Space Lots also herein referred to as the "Property".

WHEREAS, it would be deemed in the public interest to protect, manage, and enhance such Open Space resources; and

WHEREAS, it is the objective of the Town to encourage the protection of the Open Space areas, the view shed afforded by the resources as it and they are located in the Town boundaries and to encourage the preservation of Open Spaces that are essential and desirable to the quality of life of all residents of the Town, the County of Saratoga and the State of New York; and

WHEREAS, the Grantee is a "Public Body" within the meaning of Article 49, Title III of the Environmental Conservation Law of the State of New York (the "Environmental Conservation Law") that is empowered to conserve real property, is a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code") and is qualified to be the Grantee of a Conservation Easement; and

WHEREAS, the parties desire to conserve the "Property" by entering into a Conservation Easement Agreement pursuant to the provisions of Article 49, Title III of the Environmental Conservation Law; and

NOW, THEREFORE, and in consideration of the foregoing and the mutual covenants contained herein, the parties agree as follows:

1) Grant of Easement: The Grantor grants to the Grantee a perpetual Conservation Easement (the "Conservation Easement") over the Property for the benefit of the general public, subject to the limitations specified herein, to view the Property in its scenic state, as that state exists on the date of this grant or as it may exist in the future as a result of the natural evolution process and uses all subject to the rights reserved herein by the Grantor and his successors and assigns in interest, in perpetuity.

2) Purpose: The purpose of this Conservation Easement is to conserve the scenic open and natural characteristics of the Property while providing for its compatible use.

3) Implementation: This Conservation Easement shall be implemented by limiting and restricting the development and use of the Property in accordance with the provisions of this Conservation Easement.

4) Rights Reserved to Grantor: Grantor hereby reserves for himself, his successors and assigns the following rights:

With respect to the Property, or any part thereof the following rights,

including without limitation the right of exclusive use, possession and enjoyment of the Property and the right to sell, transfer, lease, mortgage or otherwise encumber the Property as owner, subject to the restrictions and covenants set forth in this Conservation Easement. Nothing herein contained shall be construed as a grant to the general public of any right to enter upon any part of the Property.

5) Obligations with Respect to the Reserved Rights: Grantor is responsible for any real estate taxes, assessments, fees or charges levied against or upon the Property. Grantee shall not be responsible for any costs or liability of any kind related to the ownership, operation, insurance, upkeep or maintenance of the Property, except as expressly provided herein. Nothing herein shall relieve the Grantor of the obligation to comply with state or local laws, regulations and permits which may apply to the exercise of any rights reserved by the Grantor.

6) Restrictions Applicable to the Property. The following restrictions shall apply to the Property:

a) Subdivision: The Property shall not be further subdivided, however nothing herein shall prohibit the Grantor and the Grantee from making any

boundary line adjustments or transfers between them or adjoining landowners, which they shall deem advisable subject to the review and approval of the Planning Board of the Town of Moreau, New York.

7) Sale or Transfer: This Conservation Easement shall not restrict or affect the Rights of the Grantor or any subsequent owner of the Property to sell, lease, transfer, convey, mortgage or otherwise encumber the Property. The Property shall be described in the Deed to parcels designated as: Lot 5 as shown on a Map of

_____ Subdivision, made by _____, dated _____ and filed in the Saratoga County Clerk's Office on _____

Structures: No permanent or temporary structure may be erected or maintained upon the Property by the Grantor, their successors or assigns other than:

- a) Storm water retention, detention basins.
- b) Underground pipes for the transportation of storm water.
- c) Underground utility lines, sanitary sewer lines, potable water lines.

9) Driveways, Trails, Roads, Utilities and Drainage Ways: Private trails, utilities and drainage ways may be located anywhere on the Property provided they are constructed and located in a manner which is compatible with the open space use of the Property and which minimize erosion and the adverse affect on scenic landscape quality. Trails, driveways and roads shall be constructed and maintained to minimize erosion.

10) Enforcement: Both Grantor and Grantee may enforce this Conservation Easement in law or equity pursuant to the provisions of Article 49 Title III of the Conservation Law against any and all owners of the Property. If there is a violation of any of the provisions of this Conservation Easement, Grantor or Grantee shall notify the party in violation who shall promptly cure the violation by (a) ceasing the violation or (b) restoring the Property to its condition before the violation or (c) both as the case may be. If the violation continues, Grantor and Grantee shall each have the independent right, but not the obligation, to pursue legal actions or proceedings at law or in equity to cause such violations to be cured, and if a court of competent jurisdiction determines that a violation

has occurred hereunder, the owner shall reimburse Grantor and Grantee, as applicable, for all expenses incurred, including legal fees, whether in or out of court, and the costs of legal proceedings brought to cure a violation or to collect such reimbursement. Failure to enforce any restrictions or covenants herein contained shall in no event be deemed a waiver of rights to do so thereafter for the same violation or breach or as to one occurring prior or subsequent thereto.

The Grantor's and Grantee's rights under this paragraph apply equally in the event of either actual or threatened violation of any of the terms of this Conservation Easement.

11) Limits of Owner's Liability: Any other provisions of this Conservation Easement to the contrary notwithstanding; owner of the Property or any portion thereof shall have any liability of any kind to Grantee for (a) any damage or change to the Property or any portion thereof caused by any other owner or owners (b) any other action or events beyond Grantee's or Grantor's control or (c) in any event beyond the value of the Grantor's interest in the Property itself.

12) Forbearance: Forbearance by the Grantor or the Town to exercise its rights under this Conservation Easement in the event of any breach of any term by the Grantor or the Grantor's successors shall not be deemed or construed to be a waiver by the Grantor or the Town of such term or any of the Town's rights under this Conservation Easement or at law or in equity. No delays or omissions by the Town in the exercise of any rights or remedies upon a breach by the Grantor shall impair such right or remedy or be construed as a waiver.

13) Amendment, Variance and Waiver: This Conservation Easement may be amended upon the written consent of Grantee, Grantor and the holder of any mortgage now or hereafter a lien upon the Property. Any such amendment, variance or waiver shall be construed with the basic purpose of this Conservation Easement and Section 170(h) of the Internal Revenue Code. Any such amendment, variance or waiver that does not comply with Article 49 or Section 170(h) shall be void and of no force or effect.

14) Encumbrance by Conservation Easement: Any subsequent conveyance, including, without limitation, transfer, lease or mortgage of the Property, shall be subject to this Conservation Easement and any deed or other instrument evidencing or affecting such conveyance shall contain language substantially as follows:

“This (conveyance, lease, mortgage, easement, etc.) is subject to a Conservation Easement which runs with the land and which was granted to the Town of More by instrument dated _____, and recorded in the Office of the Clerk of Saratoga County at Instrument Number: _____.” The failure to include such language in any deed or instrument shall not affect the validity or applicability of this Conservation Easement to the Property.

15) Assignment: This Conservation Easement may be assigned by the Grantee, provided, however, that an Assignment may be made only to a not-for-profit conservation organization, public utility or governmental agency or otherwise as provided in Article 49 Title III of the Environmental Conservation Law and in accordance with the terms of this Conservation Easement.

16) Notices: Any notice required or desired to be given under this Conservation Easement shall be in writing and shall be deemed given when received or three days after mailing by certified or registered mail, return receipt requested, postage pre-paid, properly addressed as follows: (a) if to Grantee, at the address set forth above; (b) if to Grantor, at the address set forth above; (c) if to any subsequent owner at the address of such owner disclosed in the conveyance instrument. Any party can change the address to which notices are to be sent to him, her or it by duly giving notice pursuant to this paragraph.

17) Severability: Invalidation of any provision of this Conservation Easement by court judgment, order, statute or otherwise shall not affect any other provision which shall be and remain in force and effect.

18) Binding Effect: The provisions of this Conservation Easement shall run with the Property in perpetuity and shall bind and be enforceable against the Grantor and all future owners and any party entitled to possession or use of the Property or any portion thereof while such party is the owner or entitled to possession or use thereof. As used in this Conservation Easement, “interest in the Property or any portion thereof” and the term “Grantor” includes the original Grantor, his heirs, successors and assigns, all future owners of all or any portion of the Property, and any party entitled to possession or use thereof; and the term “Grantee” includes the original Grantee and its successors and assigns. Notwithstanding the foregoing, upon any transfer of title to the Property, the transferor shall cease being a Grantor or owner for purposes of this Conservation

Easement and shall have no further responsibility or liability hereunder for acts done or conditions arising thereafter, but the transferor shall remain liable for earlier acts and conditions.

19) Warranty: The Grantor warrants that it owns the Property in fee simple, and that Grantor either owns all interest in the Property which may be impaired by the granting of this Conservation Easement or that there are no outstanding mortgages, tax liens, encumbrances or other interests in the Property which have not been expressly subordinated to this Conservation Easement. Grantor further warrants that Grantee shall have the use and enjoyment of all the benefits derived from and arising out of this Conservation Easement.

20) Inspection: The Grantee and its duly authorized representative shall have the right to enter the Property at reasonable times, in a reasonable manner and where practical after giving notice, to inspect for compliance of the terms of this Conservation Easement.

23) Rights of Grantee: The Town, its successors and assigns, and specifically but not limited to, the Wilton Water and Sewer Authority are hereby granted the right to enter upon the Property for the purpose of the placement, construction, installation, reconstruction and maintenance of utility lines, sanitary sewer lines, storm water lines, potable water lines upon the following conditions and requirements:

- a) That after any improvements, construction or maintenance is completed on the Property, the Grantee, its successors or assigns, at its expense, shall reasonably restore the property to its prior natural condition, or its condition prior to the Grantee's entry.

22) Extinguishment: If a subsequent unexpected change in the condition surrounding the Property make impossible or impractical the continued use of the Property for conservation purposes, resulting in an extinguishment of this Conservation Easement or any material terms or provisions hereof by a judicial proceeding, or if and when the restrictions contained in this Conservation Easement are extinguished by eminent domain, taking or otherwise, in any subsequent sale, exchange or involuntary conversion by the Grantor, unless State Law provides, that the Grantor is entitled to the full proceeds thereof without regard to the terms of the conservation restrictions, the Grantee shall be entitled to that portion of the proceeds equal to the proportionate value

that the conservation restrictions hereby created, on the date hereof, bears to the value of the Property as a whole at the date hereof (subject to reasonable adjustment to the extent permissible under Section 170(h) of the Internal Revenue Code for any improvements which may hereafter be made on the Property) but only to the extent that the conservation restrictions hereby created are taken and compensation for such taking is included in the condemnation award. Grantee agrees to use its share of such proceeds in a manner consistent with the conservation purpose of this Conservation Easement.

23) Interpretation: This instrument is intended to create a “qualified real property interest” for “conservation purposes” as defined in Section 170(h) of the Internal Revenue Code and shall be interpreted consistently with such intention. In the event any provision has been omitted from this instrument necessary to qualify the interest hereby granted as such a “qualified real property interest” for “conservation purposes”, such provision shall be deemed incorporated herein to the extent necessary to cause the interest hereby granted to be so qualified.

IN WITNESS WHEREOF, the parties have executed this instrument on this ____ day of _____, 2025, respectively.

JAMES HOOPER

SUZANNE HOOPER

TOWN OF MOREAU, NEW YORK
By: _____

Acknowledgements