DRAFT OPTION AGREEMENT

AGREEMENT made and entered into as of this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Seller”) and \_\_\_\_\_\_\_\_\_\_\_\_\_ Land Trust of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Buyer”).

WITNESSETH AS FOLLOWS:

IN CONSIDERATION of One Dollar ($1) and other valuable consideration paid (the "Option Consideration"), the receipt of which is hereby acknowledged by Seller, and of the mutual covenants and promises hereinafter set forth, Seller and Buyer agree as follows:

**1. GRANT OF OPTION**. Seller hereby grants to Buyer the exclusive and irrevocable option to purchase a conservation restriction, on the terms and conditions contained in this Agreement, over the following real property interests (collectively, the “Premises”):

1. **PURCHASE PRICE**

The purchase price for the above described Premises shall be:

$000,000.00 (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars)

The description of the Premises in the deed of conveyance shall be (i) in form and substance reasonably satisfactory to Buyer and Seller and (ii) delivered by Seller in form satisfactory to Seller, to Buyer, for Buyer’s review, prior to the closing date.

**3. EXPIRATION**. This Option shall expire 24 months from the date of signature of this Agreement.

**4. NOTICE OF EXERCISE**. This Option may be exercised by Buyer only by giving written notice of election to exer­cise to Seller in the manner set forth in Paragraph 12(b) below prior to the expiration date set forth above.

**5. FAILURE TO EXERCISE**. In the event that Buyer fails to exercise this Option, the Option Consideration shall be retained by Seller, and neither Seller nor Buyer shall have any further rights or claims against the other.

**6. EXERCISE**. In the event that Buyer exercises this Option as provided herein, the following provisions shall be applicable:

(a) Purchase Price. Subject to any adjustments and prorations described in subparagraph (e) below, the Purchase Price shall be paid at closing to the Seller by certified check, wire transfer or bank cashier's check. The Option Consideration shall be credited against the Purchase Price at the clos­ing.

(b) Title, Covenant Against Further Encumbrances. Seller shall convey the Premises at the closing in fee simple with good and marketable title, free and clear of all mortgages and liens and free and clear of all other encumbrances. Buyer shall have until \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_ to give Seller written notice of any alleged title defects in the Premises. Seller shall be given a reasonable period of time, not to exceed ninety days, after notification of said defects or after the exercise of the Option hereunder, whichever is the latest to occur, in which to remedy any title defects. Seller agrees to use its best efforts to remedy any such defects and remove Unacceptable Encumbrances. Seller’s obligation to remove any title defects of Unacceptable Encumbrances shall not require Seller to expend more than $\_\_\_\_\_\_\_\_\_\_\_\_ or to commence litigation. This expenditure limitation shall not apply to mortgages or liens all of which Seller agrees shall be removed at or before the closing. In the event that Seller is unable to remedy or correct any such title defects or to remove or remedy any Unacceptable Encumbrance within such period of time after written notice from Buyer, then Buyer may at its option receive back the Option Consideration, this contract shall be termi­nated and neither party shall have any further obligation hereun­der. Buyer may elect to close this transaction notwithstanding said defects. Seller agrees that it will not further encumber or permit to be encumbered the Premises by any new leases, liens, mortgages, attachments, covenants, restrictions or easements after the date of this Agreement. Seller shall have the right to apply closing proceeds at the closing to discharge any mortgages or liens on the Premises.

(c) Seller Covenants. Until closing or expiration of this Option, Seller will not enter into any contract for sale of any portion of the Premises without the consent of the Buyer.

(d) Closing. The closing shall take place thirty days after Buyer’s exercise of the Option granted hereunder at 10 am, local time, at a time and place agreeable to both Seller and Buyer. At the closing, Seller shall execute and deliver to Buyer, against pay­ment of the balance of the purchase price, a Warranty Deed to the Premises, free and clear of all encumbrances.

Seller further agrees to execute and deliver to Buyer at the closing such Affidavits and Certificates as are reasonably necessary for Buyer’s acquisition and financing of the Premises including without limitation and an affidavit regarding underground storage tanks (as required by \_\_\_\_ Law) and a standard title insurance “Seller’s Affidavit” regarding mechanics liens and persons in possession and, if Seller is a corporation, partnership or other legal entity, satisfactory evidence of authority to convey and good standing.

(e) Adjustments, Prorations and Closing Costs. The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ real estate transfer tax shall be paid in accordance with applicable law.

(f) Possession. Seller shall deliver title and access to the Premises as provided in section 1 at the closing, free of all leases, tenancies or occupancies by any person..

(g) Risk of Loss, Condition of the Premises, Damage, Destruction and Insurance.

(i) All risk of loss to the Premises prior to the closing shall be on Seller.

(ii) Seller agrees to: (A) not permit or suffer waste of the Premises; and (B) not permit or suffer any release of any hazardous, special or solid wastes substances or materials in, on or about the Premises.

(iii) In the event that, prior to the closing, the Premises are de­stroyed or, in the reasonable opinion of Buyer, substantially damaged, Buyer may terminate this Option and receive back the Option Consideration.

(h) Conditions Precedent to Buyer's Obligation to Close. Buyer's obligation to close is subject to the satisfaction, at or before the closing of all of the follow­ing conditions:

(i) All representations and warranties of Seller contained in this Agreement shall be true as of the closing and Seller shall have complied with all covenants contained herein.

(ii) The Premises shall be in the same condition they are in as of the date of this Agree­ment, rea­sonable wear and tear excepted.

In the event that any of the foregoing conditions is not satisfied prior to Closing or within the lesser time period specified in the preceding subparagraphs, Buyer shall have the option of terminating this Agreement, and receiving back the Option Consideration, and thereafter the parties shall have no further obligations to one another, except that should any of Seller’s representations or warranties prove untrue, or should Seller not have complied with the covenants hereunder, then Buyer shall have the right to require Seller, at Seller’s expense, to make the Premises or title to the Premises conform thereto.

(i) Default; Remedies. In the event that Seller fails to close hereunder for a reason other than the default of Buyer, Buyer shall have all remedies available at law and equity including the right of specific performance. In the event that Buyer defaults in the performance of its obligations hereunder after exercise of this Option, Seller shall retain the Option Consideration as full and com­plete liquidat­ed damages in lieu of any other legal or equi­table remedy, in which case this Agreement will termi­nate and neither par­ty will be under any further obligation hereunder. Notwithstanding any provision to the contrary herein, Seller shall not be obligated to sell or convey to Buyer less than the Premises described herein.

**7. REPRESENTATIONS AND WARRANTIES OF SELLER**. Seller represents and warrants to Buyer that the fol­lowing are true as of the date of this Agreement and will be true as of the closing:

(a) To the best of Seller’s knowledge, the present use of the Premises is in full compliance with applicable building codes, zoning, environmental and land use laws and all other applicable laws, ordinances and regulations.

(b) There are no pending or outstanding, or, to the best of Seller’s knowledge threatened, liens, claims, rights of first refusal, licenses, contracts, leases, or encumbrances, against or affecting the Premises;

(c) All outstanding bills and/or accounts payable concerning the Premises will be paid prior to or at the time of closing or, if due after the date of Closing, will be paid by Seller when due.

(d) There are no pending or outstanding claims, losses or demands against Seller by any person respecting Seller’s ownership, use or occupancy of the Premises and to the best of Seller’s knowledge, no such claims, losses or demands against Seller are threatened.

(e) To the best of Seller’s knowledge, the Premises have not been used for any dumping of waste materials or landfill and are free of special wastes, underground storage tanks, asbestos, lead substances, and any hazardous, biomedical, radioactive or toxic, substances, materials or wastes. The terms used in the foregoing sentence shall include, without limitation, all substances and materials designated by such terms under any laws, ordinances or regulations, whether federal, state or local.

(f) Seller has no knowledge of any boundary disputes or encroachments affecting the Premises.

(g) Seller is authorized to enter into this Agreement.

**8. BROKERAGE**. Neither Seller or Buyer is represented by a Real Estate Broker who may be owned any commission on this sale.

**9. INSPECTION.** Following notification to Seller. Buyer, or its employees or agents, may enter onto any part of the Premises at all reasonable times prior to the closing in order to inspect the Premises, conduct surveys, test borings, engineering studies and such other tests, inspections and reviews of the condition of the Premises as are reasonably necessary with respect to the acquisition of the Premises. Subsequent to any disturbance of the Premises, Buyer agrees to restore the Premises as near as possible to their prior condition. Buyer agrees to and does hereby indemnify and hold harmless Seller against any loss, cost, damage, claims or expense that may arise from its or its employees' or agents' activities at the Premises. Buyer's inspection of the Premises, pursuant to this paragraph, shall not be deemed a waiver of any of the representations and warranties made by Seller hereunder.

**10. RECORDING OF OPTION;** . Seller and Buyer agree that this Option may not be recorded but further agree that the Memorandum of Option which is attached hereto as Exhibit B shall be executed and acknowledged simultaneously with this Option Agreement and may be recorded (if Buyer so desires) at the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Registry of Deeds.

**11. ASSIGNMENT**. This Agreement will inure to the benefit of and bind the respective successors and assigns of Seller and Buyer. Notwithstanding the foregoing, prior to exercise of the Option, Buyer may not assign this Agreement without the consent of the Seller.

**12. MISCELLANEOUS.**

1. Time. Time is of the essence of this Agree­ment.
2. Plans. Should Buyer fail to exercise this Option, then Buyer shall make available to Seller the results from any Survey, and Title Exam prepared by Buyer for the Premises.

(c) Notices. All notices, demands and other com­munications hereunder shall be in writing and shall be given either (i) by first class mail, postage prepaid, reg­istered or certified, return receipt requested, to Seller at the address set forth below; (ii) by hand delivery to Seller's address set forth below; or (iii) by Fed Ex, or similar overnight express mail, prepaid, to Seller's address set forth below. All notices shall be deemed to have been duly given if postmarked prior to the expiration date and time specified herein (in the case of mailing) or upon delivery (if hand delivered) or when delivered to a Fed Ex (or similar overnight delivery service) courier or office at the time indicated on the proof of delivery (if sent by overnight delivery service).

TO SELLER:

WITH COPIES TO:

(Attorney)

TO BUYER:

WITH COPIES TO:

(Attorney)

Either party may change its address for purposes of this subparagraph by giving the other party notice of the new address in the manner described herein.

(c) Construction. As used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of one gender shall be deemed applica­ble to all genders. This Agreement shall be governed by and construed in accordance with the laws of Massachusetts. All repre­sentations and warranties made by Seller herein shall survive the closing. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforce­ment of the remaining provi­sions hereof. This Agreement may be executed in duplicate originals and is to be construed under the laws of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. A facsimile signature shall be deemed an original signature.

**13. EFFECTIVE DATE**. This Agreement shall become effective on the date when both parties have received a fully executed copy of the Agreement.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement as of the date first above written.

**WITNESS**: **SELLER**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Dated: \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Dated: \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

**BUYER**:

\_\_\_\_\_\_\_\_\_\_\_\_ Land Trust

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Dated: \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

EXHIBIT A

**Sketch Map of the Property**

(See Attached Map)