

BK0743PG0178

Exempted from recordation taxes under the Code of Virginia (1950), as amended, Section 58.1-811 (A) (3), 58.1-811 (C) (4) and 10.1-1803

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THIS DEED OF GIFT EASEMENT, made this 23rd day of August 1995, ^{Finalized and} between FREDERICK E. ROUGHTON and ANN E. ROUGHTON, husband and wife, herein called ^{Returned to} the Grantors and the VIRGINIA OUTDOORS FOUNDATION, an Agency of the COMMONWEALTH OF VIRGINIA, herein called the Grantee and COMNET MORTGAGE SERVICES, INC., herein called the Bank.
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WHEREAS, the Open Space Land Act of 1966 (Chapter 17, Title 10.1, SS 10.1-1700 to 10.1-1705 of the Code of Virginia) declares that the preservation of open-space land serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by curbing urban sprawl and encouraging more desirable and economical development of natural resources, and authorizes the use of easements in gross to maintain the character of open-space land; and

WHEREAS, Chapter 18, Title 10.1 of the Code of Virginia (SS 10.1-1800 to 10.1-1804) declares it to be the public policy of the Commonwealth to encourage preservation of open-space land and authorizes the Virginia Outdoors Foundation to hold real property or any estate or interest therein for the purpose of preserving the natural, scenic, historical, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, the Fauquier County Comprehensive Land Use Plan encourages the use of easements to preserve open space; and

WHEREAS, the protection of the hereinafter described property will further the goals of the Fauquier County Comprehensive Plan by preserving open-space and agricultural land; and

WHEREAS, the hereinafter described property is located on Route 702, a designated county scenic road; and in upper Fauquier County and within the Upper Little River and Goose Creek Watersheds, locations being designated areas planned for special environmental

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protection under the Fauquier County Comprehensive Plan and under the Critical Environmental Areas Report by the General Assembly of the Commonwealth of Virginia, Goose Creek having been designated a scenic river by Act of the General Assembly of the Commonwealth of Virginia on March 26, 1976; and

WHEREAS, the hereinafter described property is adjacent to other property under open-space easement to the Grantee; and

WHEREAS, the Grantors are the owners of the fee of real property hereinafter described which they desire be preserved as open space land in the public interest.

NOW THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants herein and the acceptance by Grantee, the Grantors do hereby grant and convey to the Grantee an open-space easement in gross over, and the right in perpetuity to restrict the use of the real estate situated in the Scott Magisterial District of Fauquier County and consisting of 10.9934 acres more or less described below and hereinafter referred to as the "Property:"

ALL those tracts or parcels of land shown as Parcel A-1 totaling 10.9934 acres on plat of survey dated April 4, 1993 and revised April 19, 1995 prepared by Richard H. Vogel, licensed surveyor. Said plat being recorded on April 21, 1995 in Deed Book 737 at page 765 and on May 10, 1995 in Deed Book 738 at page 190 in the Clerk's Office of the Circuit Court of Fauquier County.

BEING a portion of the same real estate conveyed by Harry D. Oppenheimer to Frederick E. Roughton and Ann F. Roughton, husband and wife, by special warranty deed dated November 1, 1993, and recorded in Deed Book 707 at page 645 in the Clerk's Office of the Circuit Court. Reference is hereby made to the above mentioned plat and deed, and references therein for a more detailed and particular description of the real estate described.

AND SUBJECT, HOWEVER, to the restriction that the Grantee or its successors and assigns may not transfer or convey the open-space easement herein conveyed to the Grantee unless the Grantee conditions such transfer or conveyance on the requirement that (1) all restrictions and conservation purposes set forth in the conveyance accomplished by this deed are to be continued in perpetuity, and (2) the transferee is an organization then qualifying as an eligible donee as defined by section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and the applicable Treasury Regulations promulgated thereunder.

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This conveyance is further made subject to all matters of record which may affect said parcel of land.

Restrictions are hereby imposed on uses of the property pursuant to the public policies set forth above. The acts which the Grantors, their heirs, successors, personal representatives and assigns, covenant to do and not to do upon the Property, and the restrictions which the Grantee is hereby entitled to enforce, are and shall be as follows;

1. Accumulation of trash, refuse, junk, toxic substances, or any other unsightly material is not permitted on the Property.
2. Display of billboards, signs, or other advertisements is not permitted on or over the Property except to state the name and/or address of the owners or residents of the farm itself, to advertise the sale or lease of the Property, to advertise the sale of goods or services produced incidentally to a permitted use of the Property or to provide notice necessary for the protection of the Property and for giving directions to visitors. No such sign shall exceed three by three feet in size.
3. Subdivision of the Property in any manner is prohibited.
4. Management of forest resources shall be in accord with a forest stewardship plan approved by the Grantee. All forestry activities shall be carried out using Best Management Practices to control erosion, protect water quality, maintain biodiversity, and preserve the scenic quality of the area. The grantor, or its successors and assigns shall notify the Grantee no later than 30 days prior to the start of any such activity as well as within 7 days of its completion.
5. Grading, blasting or earth removal shall not alter the topography of the Property except for dam construction to create private conservation ponds or lakes, or as required in construction of permitted buildings and connecting private roads described in paragraph 6, below. Mining on the Property is prohibited.
6. No permanent or temporary building or structure shall be built or maintained on the Property other than (i) the existing permanent single family dwelling, (ii) non-residential outbuildings commonly and appropriately incidental to a single family dwelling, and (iii) farm buildings or structures. New farm buildings or structures exceeding 4,500 square feet in ground area may not be constructed on the Property unless prior written permission for said building or structure is obtained from Grantee. In determining whether to grant such approval, the Grantee

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shall consider the size, setting and location of the proposed structure and its impact on the open space quality of the easement property. The existing dwelling, farm buildings and structures on the Property at the time of this conveyance may be maintained, reasonably enlarged, altered, or rebuilt. In no event, however, may any dwelling, farm building or structure be constructed or maintained within six hundred (600) feet of the center line of State Route 702. Said prohibition shall not apply to the construction or maintenance of customary fencing and livestock watering troughs within the prohibited area.

7. Industrial or commercial activities other than farming, silviculture, viticulture or horticulture are prohibited except those which can be and in fact are conducted from buildings permitted under Paragraph 6, above, without alteration of the external appearance of same.
8. Representatives of the Grantee may enter the Property from time to time for the purpose of inspection and enforcement of the terms of this easement after permission from or reasonable notice to the owner or the owner's representative.
9. Grantors, their heirs, successors, personal representatives and assigns shall notify Grantee in writing prior to closing on any proposed transfer or sale of the Property. In any deed conveying all or any part of the Property, this easement shall be referenced by Deed Book and Page Number in the deed of conveyance.

Although this easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to or use of the Property. Grantors, their heirs, successors, personal representatives and assigns hereby retain exclusive right to such access and use, subject to the terms hereof.

Comnet Mortgage Services Inc., the Bank, is the note holder under a certain Deed of Trust dated May 5, 1995 and recorded in the Clerk's Office of Fauquier County in Deed Book 738 at page 182 which subjects the Property to the Bank's lien. The Bank and the Trustee (under the Deed of Trust), hereby consent to the terms and intent of this Easement, and agree that the lien represented by the Deed of Trust shall be held subject to this easement.

Acceptance of this conveyance by the Grantee is authorized by Section 10.1-1801 of the Code of Virginia and is evidenced by the signature of Virginia E. McConnell, Executive

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Director, by authority of a Resolution of the Foundation's Trustees adopted October 17, 1994. Assignment of this easement is governed by Section 10.1-1801 of the Code of Virginia.

WITNESS the following signatures and seals.

Frederick E. Roughton
Frederick E. Roughton, Grantor

Ann F. Roughton
Ann F. Roughton, Grantor

Comnet Mortgage Services, Inc.

By: Barbara A. Schmitt

Its: Vice President
Vice President

Mark A. Fleckenstein
Mark A. Fleckenstein, Trustee

Accepted:
VIRGINIA OUTDOORS FOUNDATION,

By: Virginia E. McConnell (SEAL)
Virginia E. McConnell
Executive Director

COMMONWEALTH OF VIRGINIA,

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CITY/COUNTY OF Loudoun, TO WIT:

I, Ollie M. Sessions, a Notary Public for the Commonwealth
aforesaid, hereby certify that FREDERICK E. ROUGHTON, Grantor, personally appeared
before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 7th day of August, 1995.

Ollie M. Sessions
Notary Public



My commission expires: February 28, 1998

(SEAL)

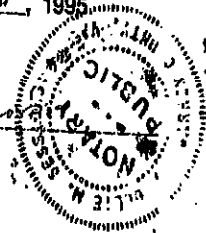
COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF Loudoun, TO WIT:

I, Ollie M. Sessions, a Notary Public for the Commonwealth
aforesaid, hereby certify that ANN F. ROUGHTON, Grantor, personally appeared
before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 7th day of August, 1995.

Ollie M. Sessions
Notary Public



My commission expires: February 28, 1998

(SEAL)

COMMONWEALTH OF VIRGINIA,

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CITY/COUNTY OF Richmond, TO WIT:

I, Gloria J. Hatchel, a Notary Public for the

Commonwealth aforesaid, hereby certify that VIRGINIA E. McCONNELL, Executive Director of the Virginia Outdoors Foundation, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 23rd day of August, 1995.



Gloria J. Hatchel
Notary Public

My commission expires: November 30, 1997

(SEAL)

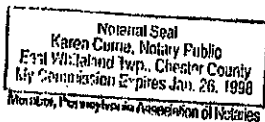
^{PA}
COMMONWEALTH OF VIRGINIA;

CITY/COUNTY OF CHESTER, TO WIT:

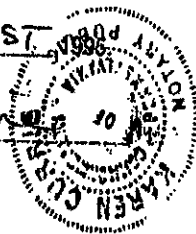
I, KAREN CURRIE, a Notary Public for the Commonwealth

aforesaid, hereby certify that BARBARA SCHMIDT, as Vice President of Connet Mortgage Services, Inc., personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal, this 8th day of AUGUST, 1995.



Karen Currie
Notary Public



My commission expires: _____

(SEAL)

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COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF RICHMOND, TO WIT:

I, PATRICIA H. BOWEN, a Notary Public for the Commonwealth aforesaid, hereby certify that MARK A. FLECKENSTEIN, as Trustee, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 4th day of August, 1995.

Patricia H. Bowen
Notary Public



My commission expires: 2-28-99

(SEAL)

VIRGINIA: IN THE CLERK'S OFFICE OF THE FAUQUIER CIRCUIT COURT

This instrument was received in this office and with certificate admitted to record on AUG 30 1995 at 11:40 a.m. Tax of \$ 00 imposed by Section 58.1-602 Paid. Consideration: \$ 00
State Tax County Tax
Transfer VSLF \$1.00 Clerk 16.00
TOTAL 17.00 Tests: Wm D Harris Clerk