

Middlesex South Registry of Deeds in
BK32180, PG260

Recorded with Middlesex South Registry of Deeds
on December 27, 2000 at 3:28 p.m.
as Instrument No. 883

8/7/00
OPEN SPACE
RESTRICTIVE
COVENANT

RESTRICTIVE COVENANT

I. GRANTOR CLAUSE:

Société Générale Financial Corporation, a Delaware Corporation, with a principal place of business at 1221 Avenue of the Americas, New York, New York 10020, ("Grantor"), acting pursuant to Sections 26 and 27 of Chapter 184 of the Massachusetts General Laws, and in consideration of One Dollar (\$1.00) and other good and valuable consideration paid, hereby grants to the Town of Boxborough, a Massachusetts municipal corporation, through the Boxborough Planning Board, Town Hall, 29 Middle Road, Boxborough, Massachusetts 01719, and their successors and permitted assigns ("Grantee"), the following restrictive covenant on the parcels of land located in Boxborough, Middlesex County, Massachusetts, which parcels are shown as "Open Space/Restriction Area A (886,000± SF, 20.34± AC)", "Open Space/Restriction Area B (441,757± SF, 10.141± AC)" and "Open Space/Restriction Area C (630,849± SF, 14.48± AC)" on a plan entitled "OPEN SPACE/RECREATION AREA PLAN OF LAND, TOWERMARC BUSINESS PARK, BOXBOROUGH, MA, (MIDDLESEX COUNTY)," dated July 19, 2000, prepared by Beals and Thomas, Inc. (the "Plan") to be recorded herewith (collectively, the "Premises").

II. PURPOSES:

A. Compliance with Open Space Commercial Development Special Permit.

Grantor and Grantee acknowledge that this Restrictive Covenant is required pursuant to the provisions of an Open Space Commercial Development Special Permit (Decision No. 97-01) issued by the Town of Boxborough Planning Board on January 19, 1997, recorded with Middlesex South Registry of Deeds on April 27, 2000 in Book 31344, Page 221 (the "Special Permit"). Under the terms of the Special Permit, the Planning Board granted its approval to build 900,000 square feet of office, research and development and other commercial uses on the property shown on the Plan (the "Commercial Development"), subject to satisfaction of certain conditions, including the following:

1. Preservation of an area of land as an "Open Space/Recreation Area," which condition may, under the terms of the Special Permit, be satisfied by constructing and operating a golf course on the Premises; and vistas.

2. Providing area residents with reasonable access to the Premises for passive recreational purposes such as hiking, jogging and cross-country skiing, during those times of the year that a golf course is not in operation on the Premises.

Granting this Restrictive Covenant to the Town of Boxborough serves to satisfy the conditions set forth above.

B. Promoting the Goals and Objectives of the Town of Boxborough's Conservation and Recreation Plan.

The designation of the Premises as Open Space/Recreation Area complies with the Town of Boxborough's Conservation and Recreation Plan which sets forth the following goals/objectives:

Goal: To acquire additional land for Conservation and Recreation purposes.

Objectives: To encourage developers of residential, commercial and industrial properties to include recreational facilities and open space in their developments and to provide linkages to existing conservation or recreational properties. To explore alternatives for funding open space acquisition including private foundations and land gifts.

III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES.

A. Prohibited Uses.

Constructing or placing of any commercial building shall be prohibited on the Premises.

B. Permitted Uses.

All acts and uses not prohibited in Section A are permissible and are reserved to the Grantor, its successors and assigns, including, without limitation, the following:

1. Grantor reserves all rights necessary to develop, renovate and operate an 18-hole golf course or other recreational/open space use, including but not limited to the rights to develop ponds, water supply wells and leaching fields for sanitary septage; grade and regrade topography; construct golf tees, bunkers and traps, clubhouse and maintenance facilities (together with associated parking, related office and exhibit facilities, and complementary recreational facilities), fairways and greens, cart paths and

boardwalks; install benches, tee, yardage and directional markers and signs; ball washing devices and similar customary golf course accessories, all strictly in accordance with and limited by applicable state and local approvals and regulations, as the same may be amended from time to time. Without limiting the generality of the foregoing, Grantor reserves the following specific rights:

- (a) To maintain any areas as necessary by watering methods, landscaping, applying fertilizer, herbicides or pesticides or otherwise as is incidental to the operation of a golf course or other recreational use of the Premises, including the right to plant and selectively cut or prune trees, brush or other vegetation or in accordance with course's Integrated Pest Management Program.
- (b) To erect small accessory structures such as pumphouses, sprinkler control boxes, toilet facilities, and open shelters, subject to all applicable state and local regulatory requirements.
- (c) To construct paved or unpaved paths and boardwalks for pedestrian and/or golf cart traffic.
- (d) To install, maintain and use underground utility lines, including but not limited to, irrigation lines;
- (e) To excavate and remove from the Premises soil or import onto the Premises, gravel or other mineral resources or natural deposits as may be incidental to the installation or maintenance or removal of septic systems, utilities, and other underground structures or the maintenance of good drainage, soil conservation practices or other permissible uses of the Premises or for construction, maintenance, or operation of the golf course or other recreational use;
- (f) To dig, drill and operate water wells and associated utility lines.
- (g) To selectively cut trees for fire protection, unpaved trail and road maintenance, tick control or otherwise to preserve the conservation values of the Premises, including vistas.

2. Grantor reserves all rights necessary to allow use of the Premises for passive outdoor recreational purposes, such as hiking, jogging and cross-country skiing, and other similar outdoor recreational activities not involving motorized vehicles (collectively, the "Passive Recreational Uses"), during those times of the year that a golf course is not in operation on the Premises. Grantor and Grantee acknowledge and agree that use of

the Premises for the Passive Recreational Uses will be permitted only during daylight hours and will be subject to rules and regulations established and agreed upon by Grantor and Grantee.

3. Grantor reserves all rights necessary to allow any other recreational use of the Premises agreed to by Grantor and Grantee, and associated parking, access driveways and accessory structures related thereto, whether or not such use requires alteration of the topography of such area, provided that a golf course is not in operation on the Premises. The surface of such parking areas and access driveways shall be made of gravel or other comparable pervious surface. Grantor and Grantee acknowledge and agree that access to the Premises for such recreational uses shall be permitted only during daylight hours, and will be subject to rules and regulations established and agreed upon by Grantor and Grantee.
4. Grantor reserves all rights necessary to construct, use and maintain the following:
 - (a) Fire protection ponds, pump house and associated structures and facilities related thereto;
 - (b) A stormwater management system serving the Commercial Development and the subdivision roadway;
 - (c) Utilities serving the Commercial Development and the Subdivision Roadway, including, without limitation, electricity, gas, fiber optics, cable, water, sewer, telephone, and communication utilities;
 - (d) Walking paths and gravel access roadways; and
 - (e) Water supply wells, including, without limitation, any and all appurtenances thereto, as part of a public water supply system or as part of the irrigation landscaping system.
5. Grantor reserves all rights necessary to allow, in accordance with generally accepted forest management practices, pruning and cutting to prevent, control or remove hazards, disease or insect damage, fire, to preserve the present condition of the Premises, including vistas, and road maintenance, or for any other designated purposes.
6. Grantor reserves all rights necessary to take measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species.

7. Grantor reserves all rights necessary to allow for the erection, maintenance and replacement of signs of a reasonable size to identify interests of the Grantor and Grantee, respectively, in the Premises, educational, interpretive and regulatory signs (such as "no hunting") or such other signs as Grantor may deem necessary and desirable to educate the public about any limitations related to public access.
8. Grantor reserves all rights necessary to place fences on the Premises.
9. Grantor reserves all rights necessary to allow the use of motor vehicles reasonably related to the exercise by the Grantor, its successors and assigns, of the rights reserved hereunder and emergency vehicles.
10. Grantor reserves all rights necessary to allow the installation of monitoring wells as required for the waste water and storm water management systems.
11. Grantor reserves all rights necessary to dig and drill soil borings and test holes, and to dig, drill and operate water wells and associated utility lines.
12. Grantor reserves all rights necessary to allow use of the Premises for temporary construction operations needed to create and maintain excavation and fill associated with "off-grading" of the Commercial Development lots, including landscaping improvements.
13. Grantor reserves all rights necessary to allow use of the Premises for snow storage from the subdivision roadway and the Commercial Development.

The exercise of any right reserved or permitted to the Grantor under this Section III B shall be in compliance with the then current Zoning Bylaw of the Town of Boxborough; Massachusetts General Laws Chapter 131, Section 40 (the "Wetlands Protection Act"); and all other applicable federal, state and local laws.

IV. LEGAL REMEDIES OF THE GRANTEE:

A. Legal and Injunctive Relief.

In the event that a breach of these restrictions by the Grantor or by a third party comes to the attention of the Grantee, the Grantee must notify the Grantor in writing of such a breach. The Grantor shall have 30 days after receipt of such notice to undertake actions that are reasonably calculated to correct the conditions constituting such a breach. If the Grantor fails to take such corrective action, the Grantee shall, at its election, undertake such actions. The rights hereby granted shall include the right to enforce this Restrictive Covenant by appropriate legal proceedings, including obtaining injunctive and other equitable relief. The cost of curing a breach by Grantor, including the Grantee's reasonable expenses, court costs and legal fees, shall be paid by the Grantor, provided the Grantor is determined to be the cause of and responsible for the breach. Grantee covenants and agrees to reimburse Grantor for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in defending against an enforcement action prosecuted by Grantee upon a determination by a court of competent jurisdiction (or acknowledgment by Grantee) that Grantee willfully or knowingly prosecuted a frivolous enforcement action.

B. Grantee's Disclaimer of Liability.

By its acceptance of this Restrictive Covenant, the Grantee does not undertake any liability or obligation relating to the condition of the Premises.

C. Grantor's Rights.

Notwithstanding anything to the contrary provided herein, Grantor shall not have any obligation to maintain the Premises but shall have the right to do so if it so elects. The liability of Grantor for the condition of the Premises shall be limited as provided by Section 17C of Chapter 21 of the General Laws.

Whenever notice to or approval by the Grantee is required under the provisions of this Restrictive Covenant, except in the case of an emergency, the Grantor shall give written notice by certified mail, return receipt requested, to the Grantee not less than fifteen (15) days prior to the date the Grantor intends to undertake the proposed activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purpose of this Restrictive Covenant. Where the Grantee's approvals are required, the Grantee shall grant or withhold its approval by written notice, by certified mail, return receipt requested, to the Grantor within fifteen (15) days after the receipt of the written request therefor. If Grantee does not

respond to the Grantor's request within said fifteen (15) days in accordance with the provisions of this paragraph, the Grantor's request shall be deemed approved.

D. Severability Clause.

If any provision of this Restrictive Covenant shall to any extent be held invalid, the remainder shall not be affected.

E. Non-Waiver.

Any election by the Grantee as to the manner and timing of its right to enforce this Restrictive Covenant or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

V. ACCESS:

The Restrictive Covenant hereby conveyed grants to the Grantee the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of (i) inspecting the Premises to determine compliance with this Restrictive Covenant; and (ii) exercising Grantee's rights pursuant to Article IV above. This Restrictive Covenant also grants to the Grantee and to area residents the right (subject to the provisions set forth below), during any period in which a golf course is not in operation on the Premises, to enter upon the Premises and to use the Premises for the Passive Recreational Uses. Any other recreational use of the Premises will be permitted only with the prior permission of the Grantor. Any public access authorized by Grantor shall be permitted only during daylight hours and shall be subject to rules and regulations established and agreed upon by Grantor and Grantee. The liability of Grantor with respect to any such access to said Premises shall be subject to the provisions of Section 17C of Chapter 21 of the General Laws.

VI. ASSIGNABILITY:

A. Running of the Burden.

The burdens of this Restrictive Covenant shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Running of the Benefit.

The benefits of this Restrictive Covenant shall be in gross and shall not be assignable by the Grantee.

VII. SUBSEQUENT TRANSFERS:

In the event Grantor divests itself of a portion of the Commercial Development, Grantor shall be permitted to allocate a proportionate share of the Premises to the portion of the Commercial Development transferred by Grantor. Notwithstanding anything to the contrary contained herein to the extent permitted under applicable law, upon the transfer by a party of its entire interest in the Premises, the rights and obligations of such party under this Restrictive Covenant shall terminate. In the event of a transfer by a party of a partial interest in the Premises, the rights and obligations of such party under this Restrictive Covenant shall terminate with respect to the portion transferred.

VIII. ESTOPPEL CERTIFICATES:

Upon request by the Grantor, the Grantee shall within fifteen (15) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Restrictive Covenant and which otherwise evidences the status of this Restrictive Covenant as may be required by Grantor.

IX. EFFECTIVE DATE AND DURATION:

This Restrictive Covenant shall be effective when the Grantor and the Grantee have executed it and it has been recorded with Middlesex South Registry of Deeds. This Restrictive Covenant shall remain in effect as long as the Commercial Development is planned for construction or exists pursuant to the terms of the Special Permit.

X. RECORDATION:

The Grantor shall record this instrument in timely fashion with Middlesex South Registry of Deeds.

Grantee shall have the right to record further notices of this Restrictive Covenant in accordance with the provisions of M.G.L.c. 184, §27 to extend the period of enforceability of the restrictions herein imposed.

This instrument is exempt from documentary stamp excise taxes pursuant to Section 1 of Chapter 64D of the General Laws.

[Signature Pages Follow]

Executed under seal as of this _____ day of _____, 2000.

Executed this

____ day of _____, 2000

Société Générale Financial Corporation,
a Delaware Corporation

By: Robert W. Vandervalk
Its: _____

Robert W. Vandervalk
Vice President

STATE OF NEW YORK

County of New York, ss.

_____, 2000

Then personally appeared the above Vice President of Société Générale Financial Corporation and acknowledged the foregoing instrument to be his free act and deed, before me,

George M. Lee
Notary Public

My commission expires:

GEORGE M. LEE
Notary Public, State of New York
No. 01LE5053629
Qualified in Suffolk County
Commission Expires Dec. 26, ~~2000~~ 2001

ACCEPTANCE OF GRANT

The above Restrictive Covenant and Protective Covenant and Protective Covenant is accepted this 15 day of August, 2000.

BOXBOROUGH PLANNING BOARD

By: Jennie L. Rawski

By: G. Michael Adam

By: Chen J. North

By: _____

By: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 15, 2000

Then personal appeared before me the above named Jennie L. Rawski,
_____ and _____ and acknowledged the foregoing
instrument to be their free acts and deeds and the free act and deed of Boxborough Planning
Board.

Patricia E. White

Notary Public

My Commission Expires: November 2, 2001

PULL OUT

E-3

8/9/00
60 Acre CRCONSERVATION RESTRICTIONI. GRANTOR CLAUSE

Société Générale Financial Corporation, a Delaware corporation, with a principal place of business at 1221 Avenue of the Americas, New York, New York 10020 ("Grantor"), acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the Massachusetts General Laws, and in consideration of One dollar (\$1.00) and other good and valuable consideration paid, hereby grants to the Town of Boxborough, acting by and through the Boxborough Conservation Commission, Town Hall, 29 Middle Road, Boxborough, Massachusetts 01719, and their successors and permitted assigns ("Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction (hereinafter referred to as the "Conservation Restriction") on the parcels of land located in the Town of Boxborough, which parcels are shown as (i) "Conservation Restriction Area, 222,387 \pm SF, 5.11 \pm AC" and (ii) "Conservation Restriction Area, 2,394, 151 \pm SF, 54.96 \pm AC," on a plan entitled, "Restriction Plan, Towermarc Business Park, Boxborough, MA," dated April 5, 2000, last revised May 5, 2000, prepared by Beals & Thomas, Inc., and recorded herewith (the "Plan"), and is more particularly described on Exhibit A attached hereto (collectively, the "Premises"). The "Gravel Removal Area" described in Exhibit B attached hereto is included within the Conservation Restriction Area referred to in item (ii) above. For Grantor's title see deed from The EqMarc Joint Venture recorded with the Middlesex (South) Registry of Deeds in Book 31661, Page 24. Said Conservation Restriction shall apply exclusively to the Premises.

The Grantor is Société Générale Financial Corporation. The Grantee is the Town of Boxborough, acting by and through the Boxborough Conservation Commission. The Natural Heritage and Endangered Species Program of the Commonwealth of Massachusetts Division of Fisheries and Wildlife ("NHESP") is the state entity that enforces and administers the Massachusetts Endangered Species Act, M.G.L. c. 131A, as it may be amended ("MESA").

II. PURPOSES

The Premises which are the subject of this Conservation Restriction have certain unusual, unique or outstanding qualities, the preservation of which in their predominately natural or open condition will be of benefit to the public. Such qualities (hereinafter collectively referred to as "conservation values") include:

- A. An area of wetlands in the southeasterly section of the Premises, between the upland sections of the Premises and Route 495. This wetland area is dominated by Beaver Brook and serves as wildlife habitat, including habitat for Blanding's turtles (*Emydoidea blandingi*), a Threatened Species under the Massachusetts Endangered Species Act (M.G.L. c. 131A). It also may contribute to the protection of public and

Towermarc Business Park, Boxborough
05 32.00

09/06/00 PLAN NUMBER: 00000989
SEE PLAN IN RECORD BOOK 31793 PAGE 447

private water supply, pollution prevention, groundwater supply, flood control and storm damage prevention. An additional important wetland feature is the vernal pool on the west side of the subdivision road.

- B. An area on the westerly section of the Premises, which was disturbed as a result of historic gravel mining operations, served or serves as nesting habitat for Blanding's turtles. The area is in the process of reforestation, which would diminish or eliminate its function as nesting habitat absent the activities described herein.
- C. Provision of a quiet open space and potential recreational buffer between concentrated commercial development and a rural/agricultural area.
- D. Potential creation of a golf course or other recreational use which will increase and improve the outdoor recreational amenities in the area while at the same time maintaining turtle habitat.
- E. The designation of the Premises as permanent open space is in furtherance of the Town of Boxborough's Conservation and Recreation Plan which includes the following goals/objectives:

Goal: To acquire additional land for Conservation and Recreation purposes.

Objectives: To encourage developers of residential, commercial and industrial properties to include recreational facilities and open space in their developments and to provide linkages to existing conservation and or recreation properties. To explore alternatives for funding open space acquisition including private foundations and land gifts.

Granting this Conservation Restriction serves to satisfy the requirements set forth in Conservation Permit No. 00-009.DFW issued by the Commonwealth of Massachusetts Division of Fisheries and Wildlife dated March 1, 2000.

III. PROHIBITED ACTS AND USES AND PERMITTED EXCEPTIONS

- A. Prohibited Acts and Uses. Subject to the exceptions and rights reserved to Grantor, its successors and assigns pursuant to Section B, below, Grantor will not perform or give permission to others to perform the following acts or uses on the Premises:
 - 1. The construction or placement of any road, mobile home, utility pole, tower, conduit or line as provided hereunder on, above or under the Premises except as hereinafter provided in Section III.B., or as necessary to permit the use of the Premises as set forth in Section III.B. Except as provided in Section III.B, any such permitted man-made structure must be approved by the Grantee, whose approval shall not be unreasonably withheld, must not

materially diminish the qualities of the Premises as described herein, and all such structures must be in full conformity with all applicable local, state and federal environmental regulations, including MESA;

2. The construction or placement of any building or structure, except as hereinafter provided in Section III.B;
3. The excavation, dredging or removal from the Premises of soil, loam, peat, gravel, sand, rock, or other mineral resource or natural deposit in such manner as to significantly affect the surface thereof, and the placement, filing, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever, except for customary drainage ditching activities relating to mosquito and other insect control but only with approval by the Grantee, provided that all such activities must be in full conformity with all applicable local, state and federal environmental regulations, including MESA; except as provided in IIIB.
4. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation or wildlife habitat;
5. The use of motorcycles, motorized trail bikes, snowmobiles and all other motor vehicles, except as reasonably necessary in exercising any of the reserved rights in Section III.B, or as required by the police, fire department or other governmental agents in carrying out their lawful duties;
6. Construction and maintenance of trails, ways, or any paved surfaces, except as provided in Section III.B; and
7. Use of pesticides, or biocides, including but not limited to insecticides, fungicides, rodenticides and herbicides (except as absolutely necessary to preserve rare or endangered plant or animal species and subject to prior written approval and agreement of the Grantee and NHESP), except as hereinafter provided in Section III.B.
8. Any conveyance of a part or portion of the Premises alone, or the division or subdivision of the Premises (as compared to the conveyance of the Premises in its entirety, which shall be permitted) that would impair or affect the enforceability of this Conservation Restriction on a successor in interest to the Grantor, without the prior written consent of the Grantee.

B. Permitted Activities and Uses. Notwithstanding the provisions of Section III.A, above, the following acts and uses are permitted, provided that all such activities and uses must be in full conformity with all applicable local, state and federal environmental regulations, including MESA.

1. In the portion of the Premises known as the Gravel Removal Area, which is shown on the Plan and more particularly described in Exhibit B attached hereto, Grantee, its successors and assigns, may excavate, dredge or remove soil, loam, peat, gravel, sand, rock, or other mineral resource or natural deposits, provided, however, that (i) all excavation, dredging and removal occur by April 1, 2003; and (ii) the ground surface of the Gravel Removal Area is restored to a condition suitable to serve as nesting habitat for Blanding's turtles (*Emydoidea blandingi*) in accordance with a Conservation Permit issued pursuant to MESA or analogous approval issued by NHESP.
2. The Grantee, with the approval of NHESP, may maintain and modify the vegetation or excavate, dredge or remove soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposits on the Premises for conservation or scientific purposes.
3. The Grantee may construct and maintain a subdivision roadway connecting Swanson Road and Littleton County Road and may construct and maintain drainage and stormwater management systems appurtenant to the roadway. The roadway will be constructed in the approximate location shown on the Plan.
4. Grantor generally reserves all rights necessary to develop, maintain, renovate and operate all or part of an 18 hole golf course or other recreational/open space use, including but not limited to the rights to develop ponds and water supply wells, leaching fields for sanitary septage, grade and regrade topography, construct golf tees, bunkers and traps, clubhouse and maintenance facilities (together with associated parking, related office and exhibit facilities, and complementary recreational facilities), fairway and greens, cart paths and boardwalks, install benches, tee and yardage and directional markers and signs, and ball washing devices and similar customary golf course accessories, strictly in accordance with and limited by applicable state and local approvals and regulations, as the same may be amended from time to time, including but not limited to the provisions of a Conservation Permit or analogous approval issued by NHESP. Without limiting the generality of the foregoing, the Grantor reserves the following specific rights:
 - a. To maintain any areas as necessary by watering methods, landscaping, applying fertilizer or otherwise as is incidental to the operation of a golf course, including the right to plant and selectively cut or prune trees, brush or other vegetation in accordance with course's Integrated Pest Management Program;

- b. With written approval of Grantee, to erect small accessory structures such as pumphouses, sprinkler control boxes, toilet facilities, and open shelters;
- c. To construct paved or unpaved paths and boardwalks for pedestrian and/or golf cart traffic;
- d. To install, maintain and use underground utility lines, including but not limited to, irrigation line, provided the surface of the ground is restored to its natural state;
- e. To excavate and remove from the Premises soil, gravel or other mineral resources or natural deposit as may be incidental to the installation or maintenance or removal of septic systems, utilities, and other underground structures or the maintenance of good drainage, soil conservation practices or to other permissible uses of the Premises or for construction, maintenance, or operation of the golf course or other recreational use;
- f. Digging, drilling and operating of water wells and associated utility lines; and
- g. Selective cutting of trees for fire protection, unpaved trail and road maintenance, tick control or otherwise to preserve the conservation values of the Premises, including vistas.

The activities and uses permitted in paragraph B.4 hereto shall only be permitted if all of the following have occurred:

- a. A Conservation Permit or analogous approval allowing the construction, operation, and maintenance of the golf course on the Premises has been issued by NHESP;
- b. A Conservation Restriction is recorded on land located east of the subdivision roadway shown on the Plan which permits the construction of the golf course; and
- c. The Grantor, or its successors or assigns, has obtained Orders of Conditions or analogous approvals required for the construction and operation of the golf course under the provisions of the Massachusetts Wetlands Protection Act, M.G.L. c. 131 sec. 40A and the Wetlands Protection Bylaws of the towns of Harvard and Boxborough by May 1, 2006.

- C. Permitted Acts and Uses. All acts and uses not prohibited by subparagraphs A and B are permissible.

IV. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief

In the event that a breach of these restrictions by the Grantor or by a third party comes to the attention of the Grantee, the Grantee must notify the Grantor in writing of such a breach. The Grantor shall have 30 days after receipt of such notice to undertake actions, including the restoration of the Premises to its condition prior to the time of the breach complained of, that are reasonably calculated to correct swiftly the conditions constituting such a breach, provided, however, that Grantor shall have no obligation to restore conditions in existence prior to the effective date of this Conservation Restriction. If the Grantor fails to take such corrective action, the Grantee shall at its discretion undertake such actions, including appropriate legal proceedings, including obtaining injunctive and other equitable relief, as are reasonably necessary to effect such corrections; and the cost of such corrections, including the Grantee's reasonable expenses, court costs and legal fees, shall be paid by the Grantor, provided the Grantor is determined to be responsible for the breach. Grantee covenants and agrees to reimburse Grantor all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in defending against an enforcement action prosecuted by Grantee upon a determination by a court of competent jurisdiction (or acknowledgment by Grantee) that Grantee willfully or knowingly prosecuted a frivolous enforcement action.

B. Grantee's Disclaimer of Liability

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises.

C. Grantor's Rights

Except as expressly provided herein, Grantor shall not have any obligation to maintain the Premises but shall have the right to do so if it so elects in accordance with this Conservation Restriction.

Whenever notice to or approval by the Grantee or NHESP is required under the provisions of this Conservation Restriction, except in the case of an emergency, the Grantor shall give written notice by certified mail, return receipt requested, to the Grantee and NHESP not less than thirty (30) days prior to the date the Grantor intends to undertake the proposed activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purpose of this Conservation Restriction and

to monitor the proposed activity. Where the Grantee's, and/or NHESP's approvals are required, the Grantee and/or NHESP shall grant or withhold its approval by written notice, by certified mail, return receipt requested, to the Grantor within thirty (30) days of receipt of the written request therefor. If Grantee and/or NHESP does not respond to the Grantor's request within said thirty (30) days in accordance with the provisions of this paragraph, the Grantor's request shall be deemed approved as to the party that did not respond.

D. Non-Waiver

Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

V. ACCESS

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the general public, or to any other person any right to enter upon the Premises, except as follows: The Conservation Restriction hereby grants to the Grantee and NHESP the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of (i) inspecting the same to determine compliance herewith; (ii) exercising Grantee's and NHESP's rights herein, such actions to include the right to plant and selectively cut or prune trees, brush or other vegetation to implement disease prevention measures; and (iii) conducting scientific research and habitat preservation activities, provided that activities permitted in this Section V do not unreasonably disrupt the operation of a golf course or other activity permitted herein. The liability of Grantor with respect to any such access to said Premises shall be subject to the provisions of Section 17C of Chapter 21 of the General Laws.

VI. ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Running of the Benefit

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instance:

- (i) As a condition of any assignment, the Grantee requires that the purposes of this Conservation Restriction continue to be carried out, and

- (ii) The assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as a qualified organization to receive this Conservation Restriction directly; and
- (iii) The Grantee complies with the provisions required by Article 97 of the Amendments to the Massachusetts Constitution.

VII. MISCELLANEOUS

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the Purpose of this Conservation Restriction. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Conservation Purpose that would render the provision valid shall be favored over any interpretation that would render it invalid.

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction and their application to other persons and circumstances shall not be affected thereby.

This Conservation Restriction may be amended with the consent of the Grantor, the Grantee, and the Secretary of the Executive Office of Environmental Affairs.

VIII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises including a leasehold interest. Notwithstanding anything to the contrary contained herein to the extent permitted under applicable law, upon the transfer by a party of its entire interest in the Premises, the rights and obligations of such party under this Conservation Restriction shall terminate. In the event of a transfer by a party of a partial interest in the Premises, the rights and obligations of such party under this Conservation Restrictions shall terminate with respect to the portion transferred.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction and which otherwise evidences the status of this Conservation Restriction as may be requested by Grantor.

X. EFFECTIVE DATE

This Conservation Restriction shall be effective after all of the following have occurred: when executed by the Grantor and the Grantee, when the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and when it has been recorded in Middlesex County Registry of Deeds.

XI. RECORDATION

The Grantor shall record this instrument in timely fashion in the Middlesex South County Registry of Deeds.

This instrument is exempt from documentary stamp excise taxes pursuant to Section 1 of Chapter 64D of the General Laws.

For Grantor's title, reference is made to the deed recorded in Middlesex South Registry of Deeds in Book _____ Page _____.

Address of Premises: Property located off of Swanson Road and
Littleton County Road, Boxborough, Massachusetts

[Signature Pages Follow]

WITNESS our hands and seals, ^{as of} this 31st day of July, 2000.

Société Générale Financial Corporation


By: 
Robert W. Vandervalk

County of New York
State of New York
Suffolk, ss.

~~COMMONWEALTH OF MASSACHUSETTS~~

July 20, 2000

Then personally appeared the above named R.W. VANDERVALK of Société Générale Financial Corporation, and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public
My commission expires:

GEORGE M. LEE
Notary Public, State of New York
NO. 0115653629
Qualified in Suffolk County
Commission Expires Dec. 26, ~~2000~~ 2001

The foregoing Conservation Restriction is accepted by the Boxborough Conservation Commission in accordance with General Laws Chapters 40 § 8C and 184 §§ 31-33.

David M. Haines James M. Haines
Chadwick D. Golden Paul A. Re
N. Haines Deon M. Colkman
Linda C. Coe

The foregoing Conservation Restriction is approved by the Boxborough Board of Selectmen on June 12, 2000.

William L. Bink Richard E. Bink 12 JUN 00
Richard E. Bink

COMMONWEALTH OF MASSACHUSETTS

William L. Bink, ss.

Then personally appeared before me the above named James M. Haines and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of the Boxborough Conservation Commission.

Patricia E. White
 Notary Public
 My Commission Expires: 11-2-2001

COMMONWEALTH OF MASSACHUSETTS

William L. Bink, ss.

Then personally appeared before me the above named David R. White and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of the Town of Boxborough.

Patricia E. White
 Notary Public
 My Commission Expires: 11-2-2001

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Boxborough has been approved in the public interest pursuant to M.G.L. chapter 184, Section 32. Said approval is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the property, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Date:

Bob Deane
Secretary of Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Aug 29, 2000

Then personally appeared the above-named *Bob Deane* and acknowledged the foregoing instrument to be his free act and deed, before me,

Nicole Sicard
Notary Public
My commission expires:

NICOLE SICARD
Notary Public
My Commission Expires December 31, 2004

60-Acre CR

Exhibit A

METES AND BOUNDS DESCRIPTION

Conservation Restriction Area
 Boxborough, Massachusetts

A certain Conservation Restriction Area in the Commonwealth of Massachusetts, County of Middlesex, Town of Boxborough, and shown as Conservation Restriction Area on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA, Middlesex County" dated February 15, 2000, last revised May 5, 2000, prepared by Beals and Thomas, Inc., more particularly bounded and described as follows:

Beginning at the most southerly corner of said Conservation Restriction Area on the northerly side of Beaver Brook Road, thence running;

W 46 54 59 W	229.35 feet to a point, thence turning and running;
N 21 08 49 E	88.51 feet to a point, thence turning and running;
S 70 16 35 E	595.70 feet to a point. Said last three courses being bounded by other land of the Grantor, thence turning and running;
S 49 14 57 E	432.95 feet to a point, said last course being bounded by Open Space/Passive Recreation Area, thence turning and running;
S 78 10 47 W	769.48 feet along the northerly side of Beaver Brook Road, to the point of beginning.

Containing 222,387 square feet more or less, or 5.11 acres, more or less.

Subject to any and all existing rights and easements of record.

Exhibit A

METES AND BOUNDS DESCRIPTION

Conservation Restriction Area
BOXBOROUGH, MASSACHUSETTS

A certain Conservation Restriction Area in the Commonwealth of Massachusetts, County of Middlesex, Town of Boxborough, and shown as Conservation Restriction Area on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA, Middlesex County" dated February 15, 2000, last revised May 5, 2000, prepared by Beals and Thomas, Inc., more particularly bounded and described as follows:

Beginning at the most northerly corner of said Conservation Restriction Area, on the southerly side of Beaver Brook Road, thence running;

S 68 04 22 E	897.39 feet to a point, said course being bounded by other land of the Grantor, thence turning and running;
N 86 30 26 E	940.00 feet to a point, said course being bounded by land now or formerly of Harvard Sportsmens Club, Inc., thence turning and running;
S 12 52 46 W	413.00 feet to a point, thence turning and running;
S 41 37 14 E	60.00 feet, more or less, to a point, said last two courses being bounded by land now or formerly of Robert B. & Mary L. Lovelace thence turning and running;
Southwesterly	1,660.00 feet, more or less, to a point, said course being by Beaver Brook and bounded by land now or formerly of Nature Conservancy of Massachusetts, thence turning and running;
N 58 30 58 W	277.00 feet, more or less, to a point, thence turning and running;
S 63 29 33 W	324.22 feet to a point, thence turning and running;
S 78 10 54 W	134.54 feet to a point, thence turning and running;
N 62 36 47 W	83.12 feet to a point, thence turning and running;
W 79 34 40 W	95.63 feet to a point, thence turning and running;

S 33 30 38 W	208.96 feet to a point, thence turning and running;
S 84 25 36 W	403.00 feet to a point, thence turning and running;
S 38 18 42 E	536.00 feet, more or less, to a point. Said last eight courses being bounded by land now or formerly of Harvard Sportsmens Club, Inc., thence turning and running;
Southerly	377.00 feet more or less, to a point, said course being by Beaver Brook and bounded by land now or formerly of Nature Conservancy of Massachusetts, thence turning and running;
N 60 02 46 W	881.00 feet, more or less, to a point, thence turning and running;
N 11 49 13 W	166.93 feet to a point, said last two courses being bounded by other land of the Grantor, thence turning and running;
N 78 10 47 E	640.49 feet to a point of curvature, thence turning and running;
Northerly	by a curve to the left with a radius of 975.00 and a length of 1,101.91 feet to a point of compound curvature, thence turning and running;
Northerly	by a curve to the left with a radius of 1,000.00 and a length of 422.02 feet to a point of tangency, thence turning and running;
N 10 45 13 W	329.47 feet to a point of curvature, thence turning and running;
Northerly	by a curve the right with a radius of 1,034.59 and a length of 162.69 to a point of tangency, thence turning and running;
N 01 44 37 W 189.00	feet to the point of beginning. Said last six courses being bounded by the southerly side of Beaver Brook Road.

Containing 2,394,151 square feet more or less, or 54.96 acres, more or less.

Subject to any and all existing rights and easements of record.

60 Acre CR

Exhibit B

METES AND BOUNDS DESCRIPTION

Gravel Removal Area
Boxborough, Massachusetts

A certain Gravel Removal Area in the Commonwealth of Massachusetts, County of Middlesex, Town of Boxborough, and shown as Gravel Removal Area on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA, Middlesex County dated February 15, 2000, last revised May 5, 2000, prepared by Beals and Thomas, Inc., more particularly bounded and described as follows:

Beginning at the most westerly corner of said Gravel Removal Area, on the southerly side of Beaver Brook Road, thence running;

Northerly	by a curve to the left having a radius of 975.00 feet and a length of 192.12 feet to a point of compound curvature, thence turning and running;
Northerly	by a curve to the left having a radius of 1,000.00 feet and a length of 176.68 feet to a point, said last two courses being bounded by the southerly side of Beaver Brook Road, thence turning and running;
S 79 16 10 E	553.79 feet to a point, thence turning and running;
S41 42 40 W	162.66 feet to a point, thence turning and running;
S 37 59 21 W	167.73 feet to a point, thence turning and running;
S 27 26 30 W	112.89 feet to a point, thence turning and running;
N 74 40 57 W	382.54 feet to the point of beginning. Said last five courses being bounded by the Conservation Restriction Area.

Containing 170,857 square feet more or less, or 3.92 acres, more or less.

Subject to any and all existing rights and easements of record.

Pull out

E-1

8/9/00
49-Acre CR

816

CONSERVATION RESTRICTION

I. GRANTOR CLAUSE:

Société Générale Financial Corporation, a Delaware corporation, with a principal place of business at 1221 Avenue of the Americas, New York, New York 10020 ("Grantor"), acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the Massachusetts General Laws, and in consideration of One Dollar (\$1.00) and other good and valuable consideration paid, hereby grants to the Town of Boxborough, a Massachusetts municipal corporation, acting by and through the Boxborough Conservation Commission, Town Hall, 29 Middle Road, Boxborough, Massachusetts 01719, and their successors and permitted assigns ("Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction (hereinafter referred to as the "Conservation Restriction") on the parcels of land located in Boxborough, Middlesex County, Massachusetts, which parcels are shown as "Open Space/Passive Recreation Area (1,698,693± sf, 39 ± AC)" and "Open Space/Active Recreation Area (434,403± sf, 9.97 ± AC)" on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA," dated April 5, 2000, last revised May 5, 2000, prepared by Beals & Thomas, Inc., and recorded herewith (the "Plan"), and are more particularly described on Exhibit A attached hereto (collectively, the "Premises"). For Grantor's title see deed from The EqMarc Joint Venture recorded with Middlesex South Registry of Deeds in Book 31661, Page 26.

II. PURPOSES:A. Preservation of Conservation Values.

The Premises which are the subject of this Conservation Restriction have certain unusual, unique or outstanding qualities, the preservation of which in their predominantly natural or open condition (subject to the rights of the Grantor as reserved hereunder) will be of benefit to the public. Such qualities (hereinafter collectively referred to as the "Conservation Values") include following:

The Premises contain upland habitat potentially used by two state-listed species of turtles protected under the Massachusetts Endangered Species Act, Chapter 131A of the Massachusetts General Laws, the Blanding's turtle (*Emydoidea blandingi*) and the Eastern Box turtle (*Terrapene carolina*). Granting this Conservation Restriction serves to satisfy the requirements set forth in Conservation Permit No.00-009.DFW issued by the Commonwealth of Massachusetts Division of Fisheries and Wildlife dated March 1, 2000.

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RECORD BOOK 31793
TOWERMARC BUSINESS PARK, BOXBOROUGH
MIDDLESEX COUNTY, MASSACHUSETTS

The Premises also contain areas of wetlands, which contribute to the protection of public and private water supply, the prevention of pollution, flood control and storm damage protection; and provide habitat for a variety of birds, fish, reptiles and mammals.

B. Compliance with Open Space Commercial Development Special Permit.

Grantor and Grantee acknowledge that this Conservation Restriction is required pursuant to the provisions of an Open Space Commercial Development Special Permit (Decision No. 97-01) issued by the Town of Boxborough Planning Board on January 19, 1997 (the "Special Permit"). Under the terms of the Special Permit, the Planning Board granted its approval to build 900,000 square feet of office, research and development and other commercial uses on the property shown on the Plan (the "Commercial Development"), subject to satisfaction of certain conditions, including the following:

1. Preservation of an area of land as an "Open Space/Recreation Area," which condition may, under the terms of the Special Permit, be satisfied by constructing and operating a golf course on the Premises; and
2. Providing area residents with reasonable access to the Premises for passive recreational purposes such as hiking, jogging and cross-country skiing, provided that a golf course is not in operation on the Premises.

Granting this Conservation Restriction to the Town of Boxborough serves to satisfy the conditions set forth above.

C. Promoting the Goals and Objectives of the Town of Boxborough's Conservation and Recreation Plan.

The designation of the Premises as Open Space/Recreation Area complies with the Town of Boxborough's Conservation and Recreation Plan which sets forth the following goals/objectives:

Goal: To acquire additional land for Conservation and Recreation purposes.

Objectives: To encourage developers of residential, commercial and industrial properties to include recreational facilities and open space in their developments and to provide linkages to existing conservation or recreational properties. To explore alternatives for funding open space acquisition including private foundations and land gifts.

III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES.

A. Prohibited Acts and Uses.

Subject to the exceptions and rights reserved to Grantor, its successors and assigns pursuant to Section B, below, the following acts and uses are prohibited on the Premises:

1. Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, below or above the Premises except as necessary to permit the use of the Premises as set forth in Section B, below;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, except as necessary for proper drainage, wastewater treatment or soil conservation and as necessary to permit the use of the Premises as set forth in Section B, below;
3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other similar substance or material whatsoever or the installation of underground storage tanks, except as necessary to permit use of the Premises as set forth in Section B, below;
4. Cutting, removing or otherwise destroying trees, grasses or other vegetation, except as permitted in Section B, below;
5. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation or wildlife habitat; and
6. Any other use of the Premises which is materially inconsistent with the purposes of this Conservation Restriction and which would materially impair significant conservation values, unless necessary for the protection of the conservation values that are the subject of this Conservation Restriction or otherwise permitted in Section B below.
7. With exception of the Open Space/Active Recreation Area shown on the Plan, any conveyance of a part or portion of the Premises alone or the division or subdivision of the Premises (as compared to the conveyance of the Premises in its entirety which shall be

permitted) that would impair or affect the enforceability of this Conservation Restriction on a successor in interest to the Grantor, without the prior written consent of the Grantee.

B. Exceptions to Otherwise Prohibited Uses.

All acts and uses not prohibited in Section A are permissible and are reserved to the Grantor, its successors and assigns. Further, notwithstanding the provisions of Section A, above, the following acts and uses are also permitted:

1. Grantor reserves all rights necessary to develop, maintain, renovate and operate an 18-hole golf course or other recreational/open space use, including but not limited to the rights to develop ponds, water supply wells and leaching fields for sanitary septage; grade and regrade topography; construct golf tees, bunkers and traps, clubhouse and maintenance facilities (together with associated parking, related office and exhibit facilities, and complementary recreational facilities), fairways and greens, cart paths and boardwalks; install benches, tee, yardage and directional markers and signs; ball washing devices and similar customary golf course accessories, all strictly in accordance with and limited by applicable state and local approvals and regulations, as the same may be amended from time to time, including but not limited to the provisions of a Conservation Permit March 1, 2000, or as it may be subsequently amended, issued by the Natural Heritage and Endangered Species Program of the Massachusetts Division of Fisheries and Wildlife. Without limiting the generality of the foregoing, Grantor reserves the following specific rights:
 - (a) To maintain any areas as necessary by watering methods, landscaping, applying fertilizer, herbicides or pesticides or otherwise as is incidental to the operation of a golf course or other recreational use of the Premises, including the right to plant and selectively cut or prune trees, brush or other vegetation or in accordance with course's Integrated Pest Management Program.
 - (b) To erect small accessory structures such as pumphouses, sprinkler control boxes, toilet facilities, and open shelters, subject to all applicable state and local regulatory requirements.
 - (c) To construct paved or unpaved paths and boardwalks for pedestrian and/or golf cart traffic.

- (d) To install, maintain and use underground utility lines, including but not limited to, irrigation lines, provided the surface of the ground is restored to its natural state.
 - (e) To excavate and remove from the Premises soil, gravel or other mineral resources or natural deposits as may be incidental to the installation or maintenance or removal of septic systems, utilities, and other underground structures or the maintenance of good drainage, soil conservation practices or other permissible uses of the Premises or for construction, maintenance, or operation of the golf course or other recreational use.
 - (f) To dig, drill and operate water wells and associated utility lines.
 - (g) To selectively cut trees for fire protection, unpaved trail and road maintenance, tick control or otherwise to preserve the conservation values of the Premises, including vistas.
2. Grantor reserves all rights necessary to allow use of the Premises for passive outdoor recreational purposes, such as hiking, jogging and cross-country skiing, and other similar outdoor recreational activities not involving motorized vehicles (collectively, the "Passive Recreational Uses"), as more particularly provided in Section V below. Grantor and Grantee acknowledge and agree that use of the Premises for the Passive Recreational Uses will be permitted only during daylight hours and will be subject to rules and regulations established and agreed upon by Grantor and Grantee.
3. Grantor reserves all rights necessary to allow any recreational use of the Open Space/Active Recreation Area shown on the Plan, including, but not limited to, a recreational playing field and associated parking, access driveways and accessory structures related thereto, whether or not such use requires alteration of the topography of such area, as more particularly provided in Section V below. The surface of such parking areas and access driveways shall be made of gravel or other comparable pervious surface.
4. The Grantor reserves all rights necessary to construct and maintain a subdivision roadway connecting Swanson Road and Littleton County Road, and to construct and maintain drainage and stormwater management systems appurtenant to such roadway. The roadway will be constructed in the approximate location shown on the Plan.

5. In accordance with generally accepted forest management practices (a) pruning and cutting to prevent, control or remove hazards, disease or insect damage, fire, or to preserve the present condition of the Premises, including vistas, and road maintenance; and (b) the cutting of trees for designated purposes, in accordance with a plan, prepared by a professional forester and approved by the Grantee, that is designed to protect the conservation values of the Premises including, without limitation, scenic and wildlife habitat values.
6. Measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species.
7. The erection, maintenance and replacement of signs of a reasonable size to identify interests of the Grantor and Grantee, respectively, in the Premises, educational, interpretive and regulatory signs (such as "no hunting") or such other signs as Grantor may deem necessary and desirable to educate the public about the conservation values protected and any limitations related to public access.
8. The placing of fences that do not interfere with the conservation values of the Premises and which allow for the passage of small animals.
9. The use of motor vehicles reasonably related to the exercise by the Grantor, its successors and assigns of the rights reserved hereunder and emergency vehicles.
10. The installation of monitoring wells as required for the waste water and storm water management systems.
11. Construction, operation and maintenance on the Premises of water supply wells, including without limitation, any and all appurtenances thereto, as part of a public water supply system or as part of the irrigation landscaping system.

The exercise of any right reserved or permitted to the Grantor under this Section B shall be in compliance with the then current Zoning Bylaw of the Town of Boxborough, Massachusetts General Laws Chapter 131, Section 40 (the "Wetlands Protection Act"), Massachusetts General Laws Chapter 131A (the "Massachusetts Endangered Species Act"), and all other applicable federal, state and local laws.

IV. LEGAL REMEDIES OF THE GRANTEE:

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.

B. Reimbursement of Costs of Enforcement.

The Grantor, its successors and assigns, covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including, without limitation, reasonable counsel fees) incurred in enforcing this Conservation Restriction or in remedying or abating any willful and knowing violation thereof by Grantor. Grantee covenants and agrees to reimburse Grantor for all reasonable costs and expenses (including, without limitation, reasonable counsel fees) incurred in defending against an enforcement action prosecuted by Grantee upon a determination by a court of competent jurisdiction (or acknowledgment by Grantee) that Grantee willfully or knowingly prosecuted a frivolous enforcement action.

C. Grantee's Disclaimer of Liability.

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises.

D. Grantor's Rights.

Notwithstanding anything to the contrary provided herein, Grantor shall not have any obligation to maintain the Premises but shall have the right to do so if it so elects.

E. Severability Clause.

If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

F. Non-Waiver.

Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

V. ACCESS:

The Conservation Restriction hereby conveyed grants to the Grantee and the Natural Heritage and Endangered Species Program the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of (i) inspecting the Premises to determine compliance with this Conservation Restriction; and (ii) conducting scientific research and habitat preservation activities, provided that activities in this Article V do not unreasonably disrupt the operation of a golf course or other activity permitted herein; and, for Grantee, the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of exercising Grantee's rights pursuant to Article IV above. In addition, and subject to the next ensuing provisions of this Section V, if a golf course is not developed on the Premises, this Conservation Restriction also grants to Grantee and to the public (a) the right to enter the Premises for the Passive Recreational Uses without obtaining the prior permission of the Grantor; and (b) the right to enter the Open Space/Active Recreation Area shown on the Plan for the Active Recreational Uses, but only after having obtained the prior permission of the Grantor. If a golf course is developed on the Premises, the rights of the Grantee and the public set forth in subparagraphs V(a) and V(b) above shall still be permitted, but only during those times of the year that the golf course is not in operation on the Premises. Any public access authorized by Grantor shall be permitted only during daylight hours and shall be subject to rules and regulations established and agreed upon by Grantor and Grantee. The liability of Grantor with respect to any such access to said Premises shall be subject to the provisions of Section 17C of Chapter 21 of the General Laws.

VI. ASSIGNABILITY:A. Running of the Burden.

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Running of the Benefit.

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instance:

- (i) As a condition of any assignment, the Grantee requires that the purposes of this Conservation Restriction continue to be carried out; and
- (ii) The assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the General Laws as a qualified organization to receive this Conservation Restriction directly; and
- (iii) The Grantee complies with the provisions required by Article 97 of the Amendments to the Massachusetts Constitution.

VII. SUBSEQUENT TRANSFERS:

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises including a leasehold interest. Notwithstanding anything to the contrary contained herein to the extent permitted under applicable law, upon the transfer by a party of its entire interest in the Premises, the rights and obligations of such party under this Conservation Restriction shall terminate. In the event of a transfer by a party of a partial interest in the Premises, the rights and obligations of such party under this Conservation Restriction shall terminate with respect to the portion transferred.

VIII. ESTOPPEL CERTIFICATES:

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction and which otherwise evidences the status of this Conservation Restriction as may be required by Grantor.

IX. EFFECTIVE DATE:

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded with Middlesex South Registry of Deeds and with Worcester County Registry of Deeds.

X. RECORDATION:

The Grantor shall record this instrument in timely fashion with Middlesex South Registry of Deeds.

DK 31 / 93 PG 457

This instrument is exempt from documentary stamp excise taxes pursuant to Section 1 of Chapter 64D of the General Laws.

[Signature Pages Follow]

Executed under seal as of this 31st day of July, 2000.

Executed this

20 day of July, 2000

Société Générale Financial Corporation
a Delaware Corporation

By:

Robert W. Vandervalk
Robert W. Vandervalk

County of New York
State of New York
Suffolk, ss.

~~COMMONWEALTH OF MASSACHUSETTS~~

July 20, 2000

Then personally appeared the above named Robert W. Vandervalk of Société Générale Financial Corporation, and acknowledged the foregoing instrument to be his free act and deed, before me,

[Signature]

Notary Public

My commission expires:

NOTARY PUBLIC
Notary Public, State of New York
No. 0115903629
Qualified in Suffolk County
Commission Expires Dec. 26, ~~2000~~ 2001

ACCEPTANCE OF GRANT

The above Conservation Restriction is accepted this 7 day of June, 2000.

BOXBOROUGH CONSERVATION
COMMISSION

By: Charles G. Gilder

By: N. Hanover

By: David M. Hanover

By: Paul A. Key

By: Heaven M. Galkin

By: Linda C. Coe

David M. Hanover

COMMONWEALTH OF MASSACHUSETTS

Middlebury, ss.

June 7, 2000

Then personal appeared before me the above named Charles G. Gilder Heaven M. Galkin and David M. Hanover and acknowledged the foregoing instrument to be their free acts and deeds and the free act and deed of Boxborough Conservation Commission.

Patricia E. White

Notary Public

My Commission Expires: 11-2-2001

APPROVAL BY SELECTMEN

We, the undersigned, being a majority of the Selectmen of the Town of Boxborough, Middlesex County, Massachusetts, hereby certify that at a meeting duly held on the 12 day of June, 2000, the Selectmen voted to approve the foregoing Conservation Restriction to the Town of Boxborough, Massachusetts, pursuant to M.G.L. c. 40, §8(c) and M.G.L. c. 184, §32.

SELECTMEN

By: [Signature]

By: [Signature]

By: [Signature]

By: [Signature]

12 JUN 00

COMMONWEALTH OF MASSACHUSETTS

[Signature], SS.

June 12, 2000

Then personal appeared before me the above named Danah B. Williams and acknowledged the foregoing instrument to be their free acts and deeds and the free act and deed of the Town of Boxborough.

[Signature]
Notary Public
My Commission Expires: 11-2-2001

APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS,
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Boxborough has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32. Said approval is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Date:

9/21/00



Secretary of Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Aug. 29, 2000

Then personal appeared before me the above named
Bob O'Quinn, the Secretary of Environmental Affairs for the
Commonwealth of Massachusetts and acknowledged the foregoing instrument to be his
~~or~~ her free act and deed, before me.


Notary Public
My Commission expires

NICOLE SICARD
Notary Public
My Commission Expires December 31, 2004

Exhibit A

METES AND BOUNDS DESCRIPTION

Open Space/Passive Recreation Area
Boxborough, MassachusettsParcel 1

A certain Open Space/Passive Recreation Area in the Commonwealth of Massachusetts, County of Middlesex, Town of Boxborough, and shown as Open Space/Passive Recreation Area on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA, Middlesex County dated February 15, 2000, last revised May 5, 2000, prepared by Beals and Thomas, Inc., more particularly bounded and described as follows:

Beginning at the most southerly corner of said Open Space/Passive Recreation Area, on the northerly side of Beaver Brook Road, thence running;

N 49 14 57 W	1291.88 feet to a point, said course being bounded in part by the Conservation Restriction Area and by other land of the Grantor, thence turning and running;
N 41 08 48 E	1064.28 feet to a point. Said course being by the Boxborough/Harvard Town Line, thence turning and running;
N 82 07 29 E	136.30 feet to a point, said last two courses being bound by land now or formerly of D & M/Chue Technology, Inc., thence turning and running;
S 00 38 38 E	355.17 feet to a point, thence turning and running;
S 77 59 30 E	770.00 feet to a point, thence turning and running;
N 32 51 55 E	275.00 feet to a point, said last three courses being bounded by Open Space/Active Recreation Area, thence turning and running;
S 10 45 13 E	275.59 feet to a point of curvature, thence turning and running;
Southerly	by a curve to the right having a radius of 950.00 and a length of 400.91 feet to a point of compound curvature, thence turning and running;
Southerly	by a curve to the right having a radius of 925.00 and a length of 1045.40 to a point of tangency, thence turning and running;

S 78 10 47 W 96.96 feet, said last four courses being bounded by the northerly side of Beaver Brook Road, to the point of beginning.

Containing 1,698,693 square feet more or less, or 39.0 acres, more or less.

Subject to any and all existing rights and easements of record.

Parcel 2

A certain Open Space/Active Recreation Area in the Commonwealth of Massachusetts, County of Middlesex, Town of Boxborough, and shown as Open Space/Active Recreation on a plan entitled "Restriction Plan, Towermarc Business Park, Boxborough, MA, Middlesex County" dated February 15, 2000, last revised May 5, 2000, prepared by Beals and Thomas, Inc., more particularly bounded and described as follows:

Beginning at the most southerly corner of said Open Space/Active Recreation Area, on the northerly side of Beaver Brook Road, thence running;

S 32 51 55 W	275.00 feet to a point, thence turning and running;
N 77 59 30 W	770.00 feet to a point, thence turning and running;
N 00 38 38 W	355.17 feet to a point, said last three courses being bounded by Open Space/Passive Recreation Area, thence turning and running;
N 82 07 29 E	880.29 feet to a point, said course being bound by land now or formerly of D & M/Chu Technology, Inc., thence turning and running;
S 01 59 01 E	54.00 feet to a point, thence turning and running;
S 04 42 19 W	46.56 feet to a point, thence turning and running;
S 03 03 21 E	157.81 feet, to a point, thence turning and running;
S 10 45 13 E	149.65 feet, said last four courses being bounded by the northerly side of Beaver Brook Road, to the point of beginning.

Containing 434,403 square feet more or less, or 9.97 acres, more or less.

Subject to any and all existing rights and easements of record.

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