

Farmland Investment Models: Innovative Land Access in New England

Mike Ghia, *Vermont Field Agent, Land For Good*
James Hafner, *Executive Director, Land For Good*
Kathryn Ruhf, *Senior Program Director, Land For Good*
Ben Waterman, *New Farmer Program Coordinator,*
University of Vermont Extension Center for Sustainable Agriculture

© 2016 Land For Good, Inc.

landforgood.org

Acknowledgements

This project was supported by grants from the Vermont Farm to Plate Network Fund, The Cedar Tree Foundation, and Sustainable Futures Fund of the Vermont Community Foundation, plus in-kind contributions from advisors.

Thanks and appreciation to the participating farmers and advisors. They are listed in the Appendices. Thanks also to Aaron Locker and Tim Biello for sharing their stories.

Special thanks and appreciation to Kevin Egolf, Jacob Israelow, and Aaron Niederhelman for their openness, collegiality and willingness to dialogue, and for their innovative visions to support our farms and farmers.

Land For Good (LFG) is a New England non-profit organization that specializes in farmland access, tenure and transfer. LFG's mission is to secure the future of farming in New England by putting more farmers more securely on more land. Through education, consultation, innovation, collaboration and advocacy, LFG transforms how farmers get onto, hold and transfer farmland in New England and beyond.

TABLE OF CONTENTS

<u>Executive Summary</u>	5
<u>I. Background and Context</u>	6
<u>II. The Project</u>	7
<u>III. The Investment Companies</u>	9
<u>IV. Land Acquisition</u>	12
<u>V. Farmer Agreements</u>	16
<u>VI. Farmer Feedback</u>	18
<u>VII. Advisors' Analyses</u>	20
<u>A. Legal Analysis</u>	20
<u>B. Financial Analysis</u>	23
<u>VIII. Guidelines for Farmers</u>	31
<u>IX. Concluding Thoughts</u>	34
<u>Appendices</u>	35
<u>A. Project Methodology</u>	36
<u>B. Request for Information and Additional Questions for All Investor Entities</u>	39
<u>C. Guiding Question for Farmers</u>	46
<u>D. Case Studies</u>	47
<u>1. Kingsbury Market Garden, Vermont</u>	47
<u>2. Saratoga Draft Power Farm, New York</u>	48
<u>3. Morgan Hill Farm, Vermont</u>	51
<u>E. Northeast Farm Access Profile</u>	53
<u>F. Farmer Focus Group Participants</u>	55
<u>G. Authors and Advisors</u>	56

Executive Summary

This report shares the findings, analyses and commentary of the second phase of a project conducted by [Land For Good](http://landforgood.org) (landforgood.org) (LFG) to understand the potential of private “values-based” investment capital to provide beneficial, affordable land access and security for farmers in our New England region. LFG, in partnership with the University of Vermont Extension Center for Sustainable Agriculture, conducted a detailed investigation of four investment companies and their potential as innovative models for farmers to access—and in some cases transfer—farmland. The potential for success for farmland investor models lies in their attractiveness for farmers as well as investors.

We chose companies that profess “values-based” goals and are active in New England. The companies we worked with are: Dirt Capital Partners; Iroquois Valley Farms; Local Farms Fund; and Entrepreneur Agrarian Fund. The project was designed to understand how these investment companies operate and in particular how farmers engaging in these transactions could benefit from them.

Our purpose was twofold: to help farm seekers better understand these models so they can make informed decisions about whether or not to pursue them; and to enable farm seekers to contribute constructive feedback about the models and lend insight as to whether or not they would work and why, and how they could be improved.

Each model was reviewed and discussed by farmers selected to participate in two focus group sessions—one just with the farmers, and one in dialogue with representatives from the investment companies. A team of legal and financial advisors also reviewed and commented on information and materials, such as sample leases, provided by the investment companies.

We looked at the companies’ practices for acquiring farm properties. We studied how they recruit and work with farmers, and examined their lease and other agreements. The companies acknowledged that they are evolving. They expressed willingness

to negotiate and respond to farmers’ needs, and welcomed feedback from the project.

Overall, the farmers’ initial skepticism about farmland investment companies was somewhat tempered after engaging in face-to-face dialogue with company representatives. The main questions for farmers centered on rent calculations and other aspects of affordability—the lease-to-own terms, and stewardship provisions. While not all focus group farmers came away comfortable with these models, and questions remained, several could see these models as potentially useful. At least four farmers (nearly one-third) of the focus group expressed willingness to consider these models.

The legal and financial advisors analyzed the lease examples provided by the companies. Overall, the advisors felt that the legal and financial documents were clear and sufficient. Echoing the farmers, the advisors’ concerns centered on the viability of financial arrangements for farmers, especially the timeframes specified for purchase options.

Access to capital and the affordability of farmland are perennial challenges for farmers. The investment models we examined propose to address these challenges. But no one, including the investment companies, assumes these models will work in all circumstances. And, because these models are very new, it will take at least 5-10 years for them to be truly tested and to allow for further analysis of how these arrangements work for farmers over time.

We identified several reasons why farmers might choose a relationship with one of the investment companies studied, or a similar entity. For example, a farmer might not be in a financial position to make an immediate purchase through conventional means. He or she might look to a company to secure a farm until conservation easement funds are available. An investment company might be seen as more stable and supportive than a private landlord, or the farmer might only be able to secure a lease on certain land if the investment company purchased it. A farmer might turn to an investment

company to secure land to rent knowing he/she can buy it in the future.

Finally, we offer guidelines for farmers working with investors. We encourage farmers to assemble a team of advisors, research their financing options, and develop a business plan that compares alternatives. Farmers should invest time into building the relationship with a potential investment company partner, understand the full costs of leasing from these companies, and make sure that the lease terms are adequately favorable.

This study increases understanding of how these farmland investment companies work and how they differ. It analyzed some of the potential implications of these models for land affordability and security for farmers. It does not draw broad conclusions about the specific companies studied or the farmland investment concept more broadly. We did not seek to determine which companies offer better options for farmers, or to arrive at a judgment on the concept of farmland investment in general.

Whether engaging with investment companies is in the best interest of a specific farmer depends on that farmer's financial position, the farm property in question, the proposed arrangement, and the other financing and land access options available. In the end, farmers will need to decide for themselves. The coming years will determine which companies and models stand the test of time, and which provide long-term benefits to the farmer, the investor and the land.

I. Background and Context

Investment in farmland by non-farmers is not a new phenomenon. For decades in the U.S., individuals and groups have purchased farmland for various purposes and with various motivations and financial goals. Private investment companies provide opportunities for individual investors to put their money into pooled funds that are used by the investment companies to purchase farmland with the goal of providing a financial return to the investor. Many of these investment companies expect financial returns to be based largely on keeping farmland in active production.

This report increases understanding of how these farmland investment companies work and how they differ.

Investors and investment companies increasingly see investment in farmland as a portfolio diversification strategy with potential for a meaningful return on investment. As other real estate investments collapsed in the middle of the 2000s, interest in funds that invested in farmland increased. Farmland not only maintained its value but continued to rise significantly in certain areas of the U.S. High commodity prices, particularly for corn, helped drive up land values as well as farm rents. The latter is important because investment companies often rely on rental income, in addition to land appreciation, for returns to the investors. In the face of increasing global population, increasing food consumption, global climate change, soil loss, and potential water shortages, demand for good farmland is likely to increase in the coming decades. Thus, investment in farmland is increasingly seen by fund managers as well as some individual investors as a prudent investment.

The last decade has witnessed increasing interest by “values-based” or “mission-driven” investors who have a particular interest in supporting “sustainable agriculture” and new farm businesses, and also often farmland conservation. This interest has grown within broader movements to develop a market for “conscious capital” or “patient capital,” in which investors look beyond solely short-term financial returns to invest in enterprises that also claim to have a social benefit. Some values-based investors may even forgo typical rates of return on their investment to help facilitate the fund's social goals. In the case of values-based investment in farmland, the social goals may include helping farmers to succeed financially, converting to more sustainable production, preserving land for agriculture, and making farmland more affordable for farmers.

In the last decade or so, a number of pooled investment funds have sprouted up around the U.S. with the explicit purpose of providing a vehicle for

the values-based investor to invest in multiple “sustainably managed” farmland parcels. This report summarizes the results of an investigative project that focused on certain values-based farmland investment companies that are actively purchasing farmland in New England and elsewhere in the Northeast. The project was designed to explicitly assess the potential of these investment company models to provide beneficial, affordable land access arrangements for farmers, as well as to study the concerns and considerations for farmers.

II. The Project

This report shares the findings, analyses and commentary of the second phase of a project conducted by [Land For Good](http://landforgood.org) (landforgood.org) (LFG) to understand the potential of private investment capital to provide beneficial, affordable land access and security for farmers in our region. LFG is a New England nonprofit that specializes in farm access, tenure and transfer. Its mission is to put more farmers more securely on more land in New England and beyond. In 2013, as a part of its USDA-funded [Land Access Project](http://landforgood.org/our-work/projects/land-access-project-phase-1) (landforgood.org/our-work/projects/land-access-project-phase-1), LFG and partners conducted preliminary research on values-based entities investing in farmland nationally. The findings were drawn from interviews with representatives of these entities.¹

Before completing that report, the authors realized that more extensive research would be required to better understand the potential role of values-based farmland investment entities and the implications for agriculture and farmers in New England.

So in 2014, in partnership with the University of Vermont (UVM) Extension Center for Sustainable Agriculture, LFG launched phase two of the project to more specifically understand the role and potential of farmland investment models in New England. This phase two project involved a detailed investigation of specific investment companies and

their potential as innovative models for farmers to access—and in some cases transfer—farmland.

Since the 2013, at least five pooled, values-based investment companies have started actively seeking farmland and working with farmers in New England and elsewhere in the Northeast. The companies known to be operating in this manner in New England when this research began in 2014 were:

- [Dirt Capital Partners](http://dirtpartners.com/projects) (dirtpartners.com/projects) (Dirt),
- [Entrepreneur Agrarian Fund](http://entrepreneuragrarian.com) (entrepreneuragrarian.com) (EAF), and
- [Iroquois Valley Farms](http://iroquoisvalleyfarms.com) (iroquoisvalleyfarms.com) (IVF).
- The [Local Farms Fund](http://localfarmsfund.com) (localfarmsfund.com) (LFF) started more recently.
- [Northeast Farm Access](http://nefarmaccess.com) (nefarmaccess.com) (NEFA) has a somewhat different structure.

These 5 investment companies specifically state that their goals include helping farmers to secure access to farmland and to succeed financially. In some cases, they offer farmers the opportunity to gain equity in the land, if not outright ownership, over time.

The project methodology was designed to understand how these investment companies operate and how farmers engaging in these transactions would benefit from them. Farmers and technical specialists reviewed each model. A team of lawyers and financial analysts and a focus group of Vermont farmers were recruited to assist in the research and analysis. The project’s methodology and a list of the [participating farmers](#) and [advisors](#) are detailed in the Appendices.

This report is unique in reflecting feedback and dialogue between farm seekers and representatives from investment companies.

Much information from the investment company side is readily available. But candid questions and feedback from farmers on farmland investment models are difficult to find. In particular, it has been unclear how acceptable specific models would be to farmers, what concerns they might have, and under what circumstances each model might work for certain farmers. This project is the first of its kind to bring these stakeholders together to build mutual understanding of their respective needs, and to

¹ Ruhf, Kathryn and Bob Wagner. 2013. Farmland Investors: An Exploration for New England and Beyond. Retrieved at <http://landforgood.org/wp-content/uploads/LFG-Farmland-Investors-An-Exploration-Guide.pdf>

jointly identify ways to strengthen the models in question. The companies and the farmers are commended for their collaboration.

Defining “investment” and “investment company”

An “investment” is defined as “an asset or item that is purchased with the hope that it will generate income or appreciate in the future. In finance, an investment is a monetary asset purchased with the idea that the asset will provide income in the future or appreciate and be sold at higher price.”²

This project focused on investment companies. We define “investment company” as a corporation or other entity structure whose main business is investing the pooled capital of its investors. They in turn share the profits and losses associated with the company’s investments. This project focused on investment companies specifically set up to generate a return for their investors while achieving a social good—often referred to as “values-based” or “socially responsible” investing. Most, but not all, in this study engage in lower-return “patient capital.”

These companies are not charities or non-profits. Neither are they lenders; their primary financial arrangements with the farmer do not involve debt financing. Moreover, this project looked specifically at companies that buy multiple properties. Three of the companies that participated in the project—EAF, IVF, and LFF—are subject to Federal Securities and Exchange Commission (SEC) regulations.

How this report is structured

In Section I above, we presented background about the farmland investment phenomenon and argued for why it is important to understand how these companies and agreements work. Section II briefly described the project.

In Sections III, IV and V, we present an overview information about each company we studied, followed by more detail about how each company addresses land acquisition and agreements with farmers.

Sections VI and VII focus on feedback from farmers and advisors. Farmer feedback was gleaned from two focus group sessions and is summarized in

Section VI. Section VII contains analyses by our advisors, broken out into legal review and financial review. Section VIII proposes some guidelines for farmers.

Three case studies appear in the Appendices, along with the questions we posed to the companies, guiding questions to focus group farmers, and a list of participating farmers and advisors.

Limitations

This project had several limitations. The research focused on 5 companies that met specific criteria. Other companies that fit these criteria may exist but were unknown to us. Any conclusions are limited due to relatively few real world examples of how these models are being implemented. Further, since these models are very new, it will take at least 5-10 years for these models to be truly tested and before any analysis can be done of how the arrangements work for all parties over time.

This report provides only a snapshot of the farmland investment models as the companies were implementing them in 2015. We learned that these models can be highly customized and are rapidly evolving. The participating companies emphasized that they constantly try to improve the models as they learn from each project. They have agreed to consider the concerns raised and suggestions offered by the farmers who participated in focus groups, as well as by the project advisors.

The report does not draw broad conclusions about the companies we studied or the farmland investment concept more broadly. We approached this project objectively, taking the stated values-based goals of each investment company at face-value. While we (project staff, farmers, and advisors) scrutinized each model in detail, we did not seek to determine which companies offer better options for farmers, or to arrive at a judgment on the concept of farmland investment in general. In all cases, determining whether engaging with these models and these companies is in the best interest of a specific farmer will depend entirely on that farmer’s financial position, the property in question, the proposed arrangement, and the alternate financing and land access options available.

² From Investopedia www.investopedia.com

In the end, farmers will need to decide for themselves. Therefore, this report describes the models to increase understanding of how they work and how they differ, as well as to provide some analysis of the potential implications for affordability and other factors for farmers. We also outline key questions, risks, and considerations for farmers to address together with their legal and financial advisors as they consider whether working with these or other investment companies make sense for their situation.

III. The Investment Companies

The following basic summary of how each investment company operates also highlights how each takes a somewhat different approach toward supporting agriculture. Each purchases farmland with the goal of generating either a competitive or a below market “slow money” return for their investors. The investors are also described below. In Sections IV and V, we provide more detail as to how each entity addresses issues such as land acquisition, farmer recruitment, and farmer equity.

Dirt Capital Partners (Dirt) (dirtpartners.com)

Dirt states its mission as follows: “Dirt Capital Partners invests in farmland in partnership with sustainable farmers throughout the Northeast United States, promoting land access and security for farmers while keeping farmland in productive use.” Dirt purchases farmland with the explicit goal of leasing and then selling the land to farmers who engage in sustainable agriculture practices. The recruited farmers must have an existing farm business with a proven track record of financial viability.

Initially, farmers lease from Dirt while continuing their independent businesses. Typically, the tenant has the option to purchase within a period of 6 to 9 years after Dirt acquires the property, at a price determined by a formula and set at the outset of the arrangement. As of this writing, Dirt has assembled a portfolio of farms throughout the Northeast, including in Vermont, Maine, New York and New Jersey. Descriptions of some of these projects can be found on [Dirt's](http://Dirt's website) website (dirtpartners.com/projects).

Iroquois Valley Farms (IVF) (iroquoisvalleyfarms.com)

IVF's website states, “Iroquois Valley Farms was the first socially responsible farmland company in the United States focused on supporting sustainable food production and the mid-size family farmer. IVF is a venture of Working Farms Capital (workingfarmscapital.com), based in Illinois. IVF is committed to preserving farmland, facilitating organic land management practices, supporting local food markets, providing land access opportunities to family farmers and creating values-based agriculture investment opportunities.”

IVF identifies farmers with whom they will work through its open recruitment process. These farmers must be existing “mid-size” organic farms with a proven financial track record. Together with selected farmers, IVF staff identify parcels that IVF will purchase. Often the land is near the existing farm and will be used to expand the operation.

The initial approach of IVF was to hold the property and lease indefinitely via an “evergreen” lease to the tenant farmer. While IVF continues this approach, it now offers options for the farmer to purchase the land. In some cases, the option to purchase will be given at the outset of the arrangement. IVF states that if a farmer determines later that he/she wishes to purchase the property, IVF will be willing to discuss this with the farmer at any point.

IVF was initially focused on farmland in the Midwest. At this point, IVF has farmer outreach staff based in Vermont but has not yet made an acquisition in that state. It has made purchases in adjacent Washington County, New York and in central Maine.

Local Farms Fund (LFF) (localfarmsfund.com)

LFF is a separate company from IVF, but with overlapping staff. LFF is a “socially responsible farmland access venture” co-founded by several individuals involved with Slow Money NYC (slowmoneynyc.org) in partnership with Working Farms Capital (workingfarmscapital.com), the parent company of IVF. LFF was established to provide secure land access to sustainable early stage farmers in the New York City food shed through lease-to-own arrangements.

There are 4 main differences between IVF and LFF:

1. LFF is set up to specifically support smaller, new and beginning farmers, whereas IVF was set up to support existing mid-size farms;
2. LFF is specifically designed with the intent that the farmer will purchase the farm in a manner pre-determined at the outset of the legal relationship;
3. The IVF fund can only accept accredited investors, whereas LFF may also take funds from non-accredited investors; and
4. LFF is geographically focused on what it considers the New York City food shed. It confines its acquisitions to New York, Connecticut, New Jersey and Pennsylvania, although LFF may consider farms in Western Massachusetts and Vermont under special circumstances.

LFF made its first purchase of a property in Saratoga County, New York, not far from the Vermont border, in the spring of 2015. ([See case study in Appendix D](#))

Entrepreneur Agrarian Fund (EAF)

(entrepreneuragrarian.com)

EAF describes itself as follows: “Specializing in the acquisition and management of sustainable agricultural land, the Entrepreneur Agrarian Fund is a private equity fund establishing a network of livestock based farm enterprises that provide local grass-fed, natural and organic meats to markets of the NorthEast. Capitalizing on immediate market demand, the EAF utilizes regional production efficiency to create strong investor returns through cash-flow from a consistent supply of premium crops, and on-going improvement to land and soil quality.”

Unlike the other investment companies, EAF intends to go beyond the acquisition of land to invest fully in several separate grass-based livestock businesses. Initially the company will own and oversee the businesses as a part of an effort to aggregate a significant amount of grass-fed meat for a common market. While the other investment companies maintain a division between the investment entity and the farm business, EAF’s farmers would become employees or legal partners in the EAF entity.

According to EAF, “The Entrepreneur Agrarian Fund differentiates from other agricultural investment vehicles by correlating investor returns to cash-flow & enterprise farm production value – rather than speculative farmland capital appreciation.” Initially, the farmers will be EAF employees who will be given the opportunity to receive equity in the business as a part of performance criteria within their compensation package in an “executive employment contract.”

The fund is designed so that each investment will mature in 7-10 years. At that point the employees might be able to buy out the investors, or at least gain additional equity. But that is not guaranteed. Unlike Dirt and IVF, EAF aims to provide its investors a conventional return on investment. While actively looking for land throughout New York and New England, EAF has not made any acquisitions in the region to date.

Northeast Farm Access (NEFA)

(nefarmaccess.com)

NEFA is a business that connects farmers with “social investors” who acquire a particular farm property and lease long-term to a farmer who may purchase shares in the property in the future. While NEFA engages investors and has comparable social goals, its model is substantially different from those detailed in this report in that particular investors invest in a particular property via a land-holding LLC formed for that property. NEFA declined to participate in this project. Basic information on this company appears in [Appendix F](#).

Investors and returns

Dirt, IVF and EAF are set up to only accept funds from “accredited investors” as defined by the Federal Securities and Exchange Commission (SEC). Accredited investors are individuals with an annual income of greater than \$200,000, or couples with a combined income of greater than \$300,000 in each of the last 2 years, or an individual or couple with a net worth greater than \$1 million, excluding their primary residence.

The [SEC](http://sec.gov) website (sec.gov) states, “Under the Securities Act of 1933, a company that offers or sells its securities must register the securities with the SEC or find an exemption from the registration requirements. The Act provides companies with a number of exemptions. For some of the

exemptions, such as rules 505 and 506 of [Regulation D](http://sec.gov/answers/regd.htm) (sec.gov/answers/regd.htm), a company may sell its securities to what are known as ‘accredited investors.’”

These exemptions allow smaller companies, including start-up companies with a limited track record of providing a financial return, to offer securities with a lower level of regulatory requirements and oversight compared to large corporations, provided that only accredited investors are allowed to invest. The rationale is that these investments are higher risk and that accredited investors are in a more secure financial position to take such risks with their investments.

Currently, the funds invested by Dirt come solely from its founder. Farmer interactions with the company are primarily with the founder and the recently hired Director of Farmer Services. The Director of Farmer Services supports existing farmer partners and works with prospective farmers on land projects. Starting in 2016, Dirt will be including a limited number of values-aligned, accredited investors to purchase additional farms. As the pool of investors increases, an Investment Committee likely will provide additional governance. Regardless, the investors will not have any say in the day-to-day management of the farms. The farmer will continue to interface with Dirt staff. The interactions are akin to a typical landlord-tenant relationship, and the farm management decisions remain with the farmer.

Dirt does not publicly disclose its projected return on investment, which is primarily based on a blend of rental income and farm appreciation minus management and overhead costs. The projected farm value at the time of the farmer’s purchase option is based on a fixed rate of appreciation that approximates the long-term average rate of inflation in the U.S. Thus, one could assume a 3-4% net return to the investor plus any additional returns from rent and other potential revenue sources, minus management and overhead costs. Dirt expects that at the time of the farmer’s purchase option, the farm will appraise at a higher value than the farmer’s option price with Dirt, based on normal land appreciation and the value of the farmer’s improvements to the farm.

Both IVF and LFF are actively seeking investors. IVF has over 220 equity members and additional participants in its notes program. Individuals make up just over 36% of their investors. IRAs (27%), and trusts/family office/foundations (37%) make up the rest. LFF projects returns to the individual investor of 3%. IVF states that it has a target of full market double digit returns to equity investors. In addition to equity investment, IVF also offers debt investment options. Currently, “the minimum investment amount is \$35,000 for equity and \$25,000 for fixed income notes.” For the LFF the minimum investment is at \$10,000.

Both IVF and LFF have democratically elected boards made up of investor members. IVF’s board can found [here](http://iroquoisvalleyfarms.com/board-of-managers/) (iroquoisvalleyfarms.com/board-of-managers/). The IVF and LFF boards provide oversight to the staff including making final approval of the farmland transactions. They do not play any role in the management of the farms. While IVF and LFF create opportunities for the individual investors to interact with the farms and farmers involved with the company, it is not required that the farmer provide access to their farms.

To date, EAF has raised nearly a third of its total fund target of \$60 million; thus the fund has yet to fully be implemented. EAF expects to draw funds from at least 180 investors plus about a half-dozen larger institutional investors. EAF is set up to provide its investors a conventional return on investment in the vicinity of 9-10%. It will be structured with investors as limited partners and fund managers as general partners. The limited partners will have a board that interacts with the general partners, but will not have a direct say in the activities of the farms. The general partners will hire the general manager who in turn will hire a management company. This company will provide oversight to the individual farms that will have their own management teams of farmers on the Fund’s payroll.

Opportunities for non-accredited investors—those with lower incomes and net worth—to invest in farmland are newly available through the 2012 JOBS Act. Through this law the SEC now allows non-accredited investors to make investments in smaller companies that are not publicly traded. These new regulations for “equity crowdfunding” went into effect on May 16, 2016. Investors with a net income

or net worth less than \$100,000 can invest annually up to 5% of their net worth, or \$2,000, whichever is greater. For those with greater than \$100,000 in income or net worth, this increases to 10%.

Of the companies studied, only LFF accepts non-accredited investors through an existing, pre-JOBS Act exemption known as the “Regulation D, Rule 504 securities exemption.”³

Regardless of the new SEC provisions, it is not clear whether the other farmland investment companies will seek funds from non-accredited investors in part due to risks involved and also minimum expected levels of investment. For instance, Dirt does not sell securities to investors, so it is already exempt from these regulations. Dirt intends to bring on additional investors as partners in a new LLC structure that will hold the farms. Dirt will continue to only work with accredited investors within this LLC.

Agriculture is a risky business where many things at the farm level can go wrong. All five companies carry a share in this inherent risk.

In February 2016, IVF announced that it is “working to bring to the market a non-accredited offering this year. The exact regulatory framework is still in discussion, but likely to be a Reg A+ exemption to SEC investment regulations that would still retain our private equity status [rather than become publically traded]...”

Risks to investors

In general, these types of investments are considered relatively more risky than other more mainstream investment vehicles. Several sources of investor risk are common to all five companies. Values-based farmland investment companies are relatively young. Their likely returns are uncertain and none of the companies has yet paid out to investors. In February 2016, IVF announced, “In all

likelihood, the company will be making its first cash distribution to members of record in early 2016.”

Agriculture is a risky business where many things at the farm level can go wrong. All 5 companies carry a share in this inherent risk. EAF arguably carries the biggest risk of the 5 companies since it will be directly involved in farm production and marketing, including owning livestock. However, there is always a chance that the farmers on any company’s property will experience a loss or a disaster that will make them unable to fully meet their financial and/or other obligations in agreements with the company. If the farmers do not pay rent or vacate the farm, the companies will not collect revenue. Additional company risks beyond lost revenue may include costs for eviction, or finding another suitable tenant. IVF has already experienced the failure of a farm business that occurred less than a year after the farmer took occupancy of IVF’s [first farm purchase in Maine](http://bangordailynews.com/2015/02/13/news/midcoast/union-organic-dairy-farm-declares-bankruptcy/) (bangordailynews.com/2015/02/13/news/midcoast/union-organic-dairy-farm-declares-bankruptcy).

Farmland investment companies attempt to mitigate risk in various ways. They do so in part by holding the tangible asset of real estate, which arguably has more potential to retain its value than other agricultural assets or business investments. Most spread risk by investing in a portfolio of farms. Dirt and IVF only work with experienced farmers with a proven track record. They also evaluate farmers’ business plans to maximize assurance of the farmer’s success. IVF created LFF as an entirely separate fund because investing in farms in their start-up period is inherently more risky, and represents a higher level of risk than the original IVF investors signed onto. IVF staff also performs due diligence by scrutinizing the financial viability of the farmers who will be on farms funded through LFF.

IV. Land Acquisition

Finding and securing affordable and appropriate land is as much a challenge for these investment companies as it can be for farmers. Companies’ success will depend on identifying suitable properties for their portfolios, assessing the viability of the property for farm enterprises, and determining reasonable land use parameters.

³ See “Old-School Crowdfunding: Meet the Direct Public Offering September 17, 2015 <http://www.locavesting.com/raising-capital/old-school-crowdfunding-meet-the-direct-public-offering/>

Appropriate properties and practices

Dirt's investments to date reflect their interest in a diverse portfolio of farms. Dirt has worked with farmers producing grass-fed dairy, pastured meat, small grains and vegetables. One farmer intends to start an orchard. In many cases, the relationship with the farmer begins first and then a property is identified if the farmer has not already identified one. In other cases, the property owner may approach Dirt. Increasingly, Dirt is receiving inquiries from property sellers who are often retiring farmers who want to transition their farms to new operators.

Land in which Dirt invests does not need to be certified organic. But Dirt only works with farmers who "practice environmentally responsible land use." Dirt will not work with "conventional" farmers; this includes conventional commodity dairy mainly due to the high risk associated with market and price volatility in the conventional market. Dirt has no definitive parameters on acreage. Parcel sizes range from 50 to 450 acres. Some farms come with infrastructure and some do not—"It depends on the requirements of the farmer they are partnering with on the investment." Dirt is interested in purchasing properties throughout the Northeast; thus far, it has purchased properties in New York, New Jersey, Maine, and Vermont. Examples of these projects can be found on Dirt's website (dirtpartners.com/projects).

IVF and LFF's property searches are driven by the farmers with whom they have developed relationships. Often farmers bring specific farm properties to them. Neither company seeks a farm or land without a specific farmer in mind. IVF is interested in a diversity of farm types and products and will consider any location in the Northeast.

IVF properties do not need to be certified organic at the time of purchase, but eventual organic certification is required. Converting agricultural land from conventional to organic farming is part of the IVF mission. IVF purchases have ranged from 40 acres to over 250 acres and have cost between \$100,000 and \$2 million. IVF generally prefers not to hold depreciable assets or own any infrastructure, particularly on parcels they expect to hold indefinitely. This proved easier for IVF when it started in the Midwest where the focus was cropland. However, in the Northeast,

infrastructure—particularly for dairy—has become much more of a factor. In some cases, IVF split off the housing and infrastructure, and facilitated the purchase of the infrastructure directly by the farmer, either immediately, or within a few years. Thus far, IVF has only made 1 purchase in New England (Maine), and 2 purchases in New York.

LFF projects are currently confined to Connecticut, New York, New Jersey, and Pennsylvania, but LFF also states that "consideration may be given to operations in Western Massachusetts, Vermont and other areas under special circumstances." LFF is more flexible than IVF regarding production practices and does not require organic certification. For LFF, "Sustainable farmers are individuals that follow ecologically appropriate agriculture practices. This can be organic, biodynamic, certified naturally grown or have no formal standards as long as the farmer can demonstrate agriculture practices which Local Farms Fund considers sustainable, environmentally-sound and humane."

EAF has the most specific criteria for land, since it is focused on starting pasture based enterprises. EAF actively seeks farms between 500 and 4,000 acres to achieve an economical scale at each location. Since the farms will incorporate silvo-pasture, not all of the land needs to be cleared. EAF will consider parcels as small as 250 contiguous acres if additional land is available in the area. EAF is working with a real estate agent to locate properties. It plans to advertise that it is looking for properties, and to network to make property owners aware of the types of properties that it seeks. EAF will also approach property owners who are not actively marketing their properties, including dairy farmers in financial distress.

EAF is interested in purchasing certified organic properties, but it is not a requirement. It is interested in farms with infrastructure, potentially including housing. EAF determined that there are over 2,200 farms in New York and New England exceeding 500 acres. EAF will purchase anywhere within the region, but expects that smaller parcel size and higher land prices will preclude them from making purchases in southern New England.

Land values and affordability

All companies are challenged to identify farmland in the Northeast that is priced low enough to fit their

Most companies investigated for this project look to employ conservation easements to make land affordable.

investment models and to produce the desired economic outcomes for the farmer, the investor, and the investment company.

Dirt, IVF and LFF, typically base rents on the farm acquisition costs, so high price properties would result in high rents that will not work for their farmers. The potential for a farmer to eventually purchase the farm is also reduced with a high initial purchase price by the investment company, particularly if there was no way to bring down the price, or to otherwise offset the high property value. Further, in cases where property taxes and insurance are high, farmers might find it a challenge to cover these costs. *In many ways, the investment companies are up against the same issues of price affordability facing any farmer or entity seeking to access farmland in locations with high land values.*

To keep rents and purchase prices affordable for farmers, these companies generally either look for properties already priced at close to their agricultural value (which may in itself be out of reach for beginning farmers), or for which conservation easements can bring down the price. For example, Dirt seeks to work with land trusts on farm properties they wish to conserve, or that are already conserved but could be kept in agricultural use with the help of Dirt's investment. All of the companies are looking at the potential to sell "ecosystem services" such as carbon sequestration and biodiversity enhancement, as well as other creative approaches to bring in additional income and reduce the cost to the farmer.

The role of conservation easements

Consistent with their values and as part of their land affordability strategy, most companies investigated for this project look to employ conservation easements to make land affordable. Investment companies will consider purchasing conserved farms, as well as selling conservation easements on their purchased properties. The companies have no explicit policy to sell

conservation easements in all cases; they consider selling conservation easements on a case-by-case basis. In some cases, land may have no conservation easement value. Dirt and IVF expressed that both initial fair market and conserved per-acre values cannot be so high that a purchase will not work for them and their farmers.

The anticipated easement value and the likelihood of receiving conservation funding often are critical pieces to making deals viable. In several cases, the prospect of the sale of the conservation easement has already proven important to arrangements made by Dirt, IVF, and LFF. However, the timing of securing easement funding can present complications that are not unique to these investment models. Easement sales typically take time and often lack any guaranteed timeline for securing conservation funds.

For example, IVF and LFF purchased properties in Washington County and in Saratoga County, NY, respectively, with the express intent to sell the easement to bring down the costs to the farmers. In this case, IVF failed to get funding the first year they applied for conservation funds in New York. The farmers continue to pay their rent based on formulas tied to the fair market acquisition price paid by IVF and LFF. So for an easement to be successful, the initial land costs still need to be low enough so that rental values paid by the farmer during an interim period are still affordable. IVF expects that high land values will make it difficult to make projects involving easements work in Connecticut and New Jersey or other regions of the Northeast with high real estate prices. All parties also need to feel confident that an easement sale will eventually happen.

IVF and LFF are also working to raise philanthropic capital for bridge funding until traditional state and federal easements funds are secured. One advisor suggested that investment companies could secure philanthropic dollars for a revolving fund that would be replenished with funds from the sale of the easement.

In Dirt's Hunterdon County, NJ purchase, they worked with the New Jersey Farmland Preservation program to secure a commitment to accept a property into its program prior to committing to a purchase. However, low-cost, seller financing of the

easement value for the years until the conservation funding is secured was a critical element of making the deal work. For future projects that are only viable with an easement, Dirt will likely only purchase a property with a similar upfront commitment from a conservation organization and some financial consideration. The latter may include either funds upfront to purchase an option on an easement, or low-cost financing against the future easement value.⁴

It should be noted that land conservation organizations like the Vermont Land Trust and Maine Farmland Trust have also helped farmers make direct purchases involving delayed conservation funding. In cases where the timing of the full easement funding is the only deterrent to a direct purchase by a farmer, conservation organizations may represent a preferred conservation finance partner.

Many easements in Vermont and Massachusetts include the “Option to Purchase at Agricultural Value” (OPAV) clause. With the OPAV clauses, once a sales contract is signed for the sale of a conserved farm, the easement holders have the option to preempt the sale and then purchase the property at its agricultural value, contingent upon certain exemptions and restrictions. Investment companies as purchasers and landowners are subject to the same OPAV conditions as any other landowner. (For more detailed discussion of OPAV relative to investment companies, [see OPAV Explained](#).)

There do not appear to be any state or federal policies that preclude an investment company from purchasing a farm that has an existing conservation easement. We are unaware of any conservation easements that expressly prevent an investment company from purchasing a conserved farm. Dirt’s first two farm purchases in Vermont were conserved farms in Addison County. One farm purchased by Dirt had a right of first refusal for the easement holders. In another, the easement had an

⁴ Dirt’s founder noted that upfront financing of conservation easements has precedents in the conservation forestry industry. Timber management companies such as Lyme Timber, Conservation Forestry, and Ecotrust Forestry will secure a financial commitment for easement funding from conservation organizations prior to purchasing the property.

OPAV for the easement holders.⁵ In each case, the easement holders—the Vermont Land Trust, the Vermont Housing and Conservation Board (VHCB) and the VT Agency of Agriculture—had to decide whether to allow the sale to go through or to act on their easement rights to intervene in the sale.

Accessing funding for easements

Investment companies are not always able to fully access all the potential sources of funding for conservations easements. In some situations investment companies will not be eligible (or not fully eligible) for public conservation funds, particularly federal Agricultural Land Easement (ALE) Funds administered by the USDA Natural Resources Conservation Service (NRCS). ALE policy currently requires a means test of the owners of the legal entity owning the farm in order to be eligible to receive ALE funds. This is based on the Adjusted Gross Income (AGI) of each owner of the farm’s legal ownership entity.⁶ This is a factor when the investment company wants to sell the conservation easement while the company is in ownership of the farm. However, if the easement is not sold until the farmer purchases the land, then this is no longer a factor.

IVF decided that it is not going request the financial information from its investors that ALE requires. It therefore will not participate in any conservation easement project which require application for federal ALE funds. Dirt expects to be eligible for the federal ALE funds with its current owners, although that may change if additional investors are added to Dirt’s fund. It is unclear, but seems unlikely that EAF

⁵ In the case of the farm with the OPAV, the farmer involved was already leasing the parcel as a portion of a larger farming operation which was based on land he already owned. The leased farm was actively on the market. The easement holders became involved once a sales contract was already signed with Dirt. The Vermont Land Trust explored whether the farmer involved could buy the farms directly. From the farmer’s perspective, the economics favored working with Dirt; this was their preferred option. Further, options for pursuing alternatives within the given timeframe were limited. Since the easement holders did not want to interfere with the farmers’ tenure on the land, they allowed the sales to the investment company to go through.

⁶ Namely, each owner of a farm’s legal ownership entity cannot have an Adjusted Gross Income (AGI) exceeding \$900,000. If any one of the owners has greater than \$900,000 AGI, then ALE funds could still be used towards the purchase of a conservation easement, but prorated based on the ownership percentage of the disqualified owner. For example, if the person with the disqualifying income owned 50% of the investment company which owned the farm, then available ALE funds would be reduced by 50%.

will be eligible for ALE funds given the type of investors it is pursuing, including institutional investors.

Where federal funds are not available, an investment company might be eligible to receive state or private funding towards a conservation easement while it owns the farm. This depends on the policies of state and private funders. For instance, New York State does not have the same means test requirements as the ALE program and does not always require an ALE match to state funds. IVF is working on the sale of a conservation easement on its Washington County property to the State of New York without the use of ALE funds. LFF intends to do the same with its Saratoga County purchase. However, accessing a state conservation fund may not always be an option.

In Vermont, pursuing ALE funds is currently required in almost every farm conservation project funded by the VHCB to help leverage state funds and increase the number of farms and acres that could otherwise be conserved. Further, Vermont statute requires the VHCB to consider need, impact and quality for every funding decision. With easement funding so limited and competitive, VHCB staff have indicated that it would be hard to justify the need for an easement purchase from an investment entity, absent a clear and guaranteed purchase by a tenant farmer.⁷ Such projects would receive a great deal of scrutiny by the VHCB.

Land trusts and other private conservation entities may also have policies precluding them from working with investment companies. Some land trusts may not be willing to work on securing funds for conservation easements while a company still holds the property. Or they may not consider funding an easement directly to an investment company to be a priority when conservation funds are scarce. These potential policy barriers, including with state and federal funding, generally do not exist if the sale of the easement is set up to close concurrent with the farmer closing on the purchase of the property from the investment company.

⁷ It is uncertain if a purchase option on a farm where the purchase would not take place for several years constitutes a “guarantee” for the purchase.

V. Agreements with Farmers

Farmer recruitment

Dirt, IVF and LFF have open farmer recruitment policies and are willing to talk to any farmer interested in their approach. The companies emphasize their interest in building trusting relationships with the farmers with whom they work. Most farmers found these companies by word of mouth via other farmers, land trusts and farmer support organizations. Dirt has not advertised for farmers, and does not expect to do so. IVF actively recruits farmers at conferences and in other ways. It has hired two Vermont-based staff responsible for community outreach, including recruiting farmers.

Dirt and IVF only work with existing farm businesses with a proven track record. IVF lacks strict criteria, but requires farmers to provide historical financials and a full business plan that demonstrates capacity for expansion. IVF staff works with farmers to determine if their plan will fit with an IVF scenario, and to adjust financial projections once a specific property is identified. Dirt requires that farmers demonstrate “at least 3 years’ experience managing their own farm business with increased sales and profitability each year.” It also requests financials and will work with a farmer to create a financial plan that is workable for Dirt’s model. Dirt also often makes referrals to other technical advisors such as Cooperative Extension.

LFF is the only company that will take on new and developing small farm businesses. Farmers still need to demonstrate a sufficient farm management background.

Farmers associated with EAF will be employees when the company officially launches its farm businesses. EAF plans to recruit farmer-employees using standard methods: advertising and working with third party recruiters. EAF may hire the farmers from whom they are purchasing property.

Negotiations

Once Dirt, IVF and LFF have identified a farmer and a farm property, negotiations begin between the parties. In addition to price, other considerations may include infrastructure and who will own it once the initial transaction is complete. In some cases, the house and farm infrastructure may be separated

from the main farmland parcels and negotiated separately.

Dirt and IVF indicate that they can close on a property in as quickly as 2-3 months from the initial conversation with a farmer, provided the farmer comes to the table fully prepared (i.e. full documentation, good financials, and a property that meets the company's agricultural and financial expectations). Many deals take longer than this, particularly when the farmer is not fully prepared, or when a mutually suitable property cannot be easily identified. One company has been working with a farmer for nearly 3 years to identify an appropriate property.

Lease and purchase terms

To better understand the nature of company agreements with farmers, major aspects of the companies' agreements are summarized here. The terms may change as models evolve, and Dirt, IVF and LFF indicate a willingness to negotiate and to consider customizing some of their terms to farmers' needs.

The original approach for IVF was "buy and hold indefinitely" with an "evergreen" lease which renews annually, or every few years, after an initial fixed term. However, IVF is now willing to sell to the farmer at a later date if the farmer desires, even if it is not explicitly stated in the original legal agreement. IVF is also willing at the outset to enter into a lease agreement with a farmer that provides for a buyout by the farmer after a minimum fixed lease term, typically 7 years. This could be in the form of a right of first refusal or a purchase option.⁸ IVF states that it will not sell to a non-farmer under any circumstance, nor will it sell to a farmer other than the tenant farmer unless the tenant farmer terminates. The sale price at the time of purchase will be "the fair market value at the time of the purchase, although in certain circumstances a sale price can be pre-negotiated."

In scenarios where IVF will buy and hold a property, the return to the investors and the investment company come entirely from rental income. Regardless of whether IVF will buy and hold or

⁸ A "right of first refusal" gives the farmer first right to make an offer on the property when it goes on the market. A purchase option gives the farmer the right (but not the obligation) to purchase the leased property within a timeframe and at a certain price.

eventually sell, the base rent on farms is based initially on 3.5% of the acquisition costs for IVF. All IVF leases include built-in annual rent adjustments, and what IVF refers to as "Variable Rent." Variable rent is a requirement that the farmer pay part of his/ her farm business revenue to the investment company and the investors. Once the farmer crosses a revenue threshold, a formula is applied to his/her farm business income to calculate a portion of income that he/she is required to pay as additional rent. When IVF closes on its purchase of the property, the farmer is also required to pay a \$750 "closing fee" to IVF. The lease agreement also specifies that the farmer is responsible for property taxes and insurance.

LFF agreements reflect the fund's explicit goal of farmers purchasing properties from the fund within 5-10 years. LFF has so far only made one purchase—a farm in Saratoga, NY. ([See case study in Appendix D](#)) LFF staff reported that the legal aspects of the agreements for this farm represent a template on which they expect to base future arrangements with other farmers. This farm lease agreement has a term of 20 years, but the farmer has an option to purchase after Year Five. Within the first 10 years of LFF purchasing the farm, the farmer's purchase price will be based on LFF's original acquisition cost, plus 1% growth compounding annually. If a conservation easement is sold prior to the farmer's purchase, the LFF acquisition cost basis will be reduced by the amount of the easement proceeds (minus costs associated with the easement transaction). By specifying the basis of the farmer's eventual purchase price in the lease agreement, LFF provides transparency to the farmer so he or she may make an informed decision prior to finalizing the agreement.

During the lease period, rent is based on a percentage of the acquisition cost and adjusted if and when a conservation easement is placed on the purchased property. As with an IVF lease, LFF's farmer is responsible for property taxes and insurance. However there is no "variable rent."

Similarly to LFF, Dirt's goal is for the farmer to purchase the farm from the fund within 5-9 years. Dirt's agreements with farmers start out with a 9-year lease term and an option to purchase either on the 5th or 6th anniversary of the agreement start date. The farmer's purchase price is fixed at the

outset of the agreement based on Dirt's acquisition costs (purchase price plus closing costs) plus a fixed level of appreciation that approximates the long-term average rate of inflation in the U.S. Provisions are also made for adjustments to the buyout price if an easement is sold during the time that Dirt is in possession of the property. Similar to LFF, Dirt provides transparency to the farmer about the farm's future cost so that he or she may make an informed decision prior to finalizing the agreement. Both Dirt and LFF provide that a farmer can put refundable funds into an account held by them to later be used towards the purchase.

As with many farm owners, farm infrastructure and capital improvements can present challenges for these investment companies.

During the leasing period, Dirt uses the theoretical financing costs of the farm with Farm Credit as a benchmark upon which to base the initial rental rate. However, Dirt is willing to negotiate rent with the farmer within the context of a farmer's business plan and the condition of the farm. Dirt has offered flexibility during the early years of the lease, reporting that rents may start lower and increase based on the farmer's business goals and projections. Unlike IVF, during the leasing period Dirt's agreements contain no requirements for profit sharing or any additional rent payments tied to farm revenues.

EAF intends to employ farmers under an "executive employment contract" during the initial 7-10 years of farm operation. This contract will reportedly allow the farmer to gain equity in the business based on performance. However this remains hypothetical and no sample contracts are available. We cannot determine how farmers will gain equity. EAF does not plan to guarantee selling the farm to its farmer-employees, nor will it guarantee that it will not sell to a non-farmer.

Infrastructure and capital improvements

As with many farm owners, farm infrastructure and capital improvements can present challenges for these investment companies. As mentioned above, most prefer to not purchase infrastructure or do so on a case-by-case basis if, for example, they find it is impractical not to do so. IVF may choose to work with a farmer to purchase infrastructure separately. In one case, the farmstead was subdivided from the farmland and leased to the farmer for 2 years while the farmer secured financing to purchase that parcel. Dirt considers purchasing substantial farm infrastructure on a case-by-case basis and has done so in several instances. In all cases, Dirt, IVF and LFF expect the farmers to maintain any infrastructure at the farmer's expense.

Dirt, IVF, and LFF have approached capital improvements on the farm during the lease in different ways, and their approaches are evolving. The companies recognize that farmers often need to make fixed capital improvements to grow their businesses. They also recognize that doing so on leased properties poses particular challenges to farmers around securing financing, lost capital, and farmer equity. Dirt, IVF and LFF have been experimenting with ways to assist farmers with financing improvements, and in some cases, doing so in ways that address the farmer equity in those improvements. For instance, Dirt will provide funding for some permanent improvements to the farm as long as they add long-term generic value to the property. It has done this on two of its properties thus far: for wash and pack infrastructure for a vegetable farmer, and construction of a new milking parlor for a dairy farmer.

VI. Farmer Feedback

Feedback about the investment company models gathered directly from farmers through two focus group sessions was an essential and unique part of this research project. The participating farmers received the same information as the project staff, including written answers to the extensive list of questions sent to the investment companies, and the legal and financial documents and sample leases provided by them.⁹ ([See Project Methodology in](#)

⁹ This did not include information specific to LFF since the researchers became aware of LFF after this phase.

[Appendix A](#)) In addition, farmers interacted directly with investment company representatives in the second group session, at which they directly asked additional questions about the models and how they might work for farmers.

The main concerns for the farmers centered on whether this would be affordable.

Farmer reactions

In the first, farmer-only discussion, the farmers viewed the investment models with skepticism. “Investor” and “investment” carry somewhat negative connotations in some circles. Some of the farmers questioned the motivations and sincerity of the investment companies and their affluent investors. Some farmers felt that a company’s profit motive would ultimately take precedence over the farmer’s needs. But several other farmers pointed out that this value judgment may not be appropriate. After all, farmers are for-profit businesses too. They pointed out that private banks and other private lenders also seek a profit when they lend to farmers. The philosophical discussion in the farmer-only discussion was often spirited. All farmers agreed that “the devil was in the details” of the agreements made between the farmer and the investment company. Thus, most of the farmers’ discussion focused on scrutinizing the details of the arrangements and transactions. Their questions and concerns are summarized below around two themes—stewardship standards and affordability—and reflected in the advisor comments that follow.

In the second session the farmers conversed directly with the company representatives. Despite the companies emphasizing that their methods and documents are evolving as they learn from experience, some farmer skepticism persisted. When the companies indicated their willingness to negotiate and customize the agreements to farmers’ needs, several farmers remained dubious. To them this sounded “too good to be true.” They also felt that a willingness to negotiate signaled that the companies must have other, less obvious criteria and requirements. That said, the farmers felt that

they gained more clarity about key issues through direct dialogue with the company representatives. This experience reinforces the importance of trust and clarity in the farmer-investment company dynamic. Farmers’ skepticism was reduced by talking openly with company personnel and getting satisfactory answers to their questions. In that spirit, this research project was a positive, mutual learning endeavor.

Affordability

The main concerns for the farmers centered on whether this would be affordable. Their main affordability concerns focused on the financial implications of the rents, capital infrastructure investments, and the buyout costs. Not unexpectedly, the farmers said they would want to compare what the investors offered with the financing options they could get from USDA Farm Service Agency, Vermont Economic Development Authority, or Farm Credit.¹⁰ But since the legal documents the investment companies provided to them did not include specific examples of lease and buyout costs, it was difficult for the farmers in the first, farmer-only focus group to fully assess these models and compare them to other financing options. After the focus group session the project team received specific but limited examples where more about the financial implications could be determined.

A few aspects of the company agreements provided raised farmer concerns. These included IVF’s automatic rent adjustments and variable rent terms, and Dirt’s requirement to pay the closing costs. How the leases addressed capital improvements on the farm was also a source of concern. Farmers also wanted to know more specifically what would happen in the event of farm disasters or if the farmer was not able to purchase during the time period in the option. As described in the next section, financial and legal experts raised many of these same concerns as a result of their review of investor company agreements.

¹⁰ Because this project was mainly supported by Vermont funders, references were often limited to or focused on Vermont.

Notably, none of the farmers were interested in the EAF model, largely due to the absence of specifics about how farmers would earn equity and eventually gain some ownership stake. Since almost all the focus group farmers were independent entrepreneurs themselves, none of them were interested in working as an employee for an investment company (or anyone else).

While not all the focus group farmers came away from the two sessions comfortable with these models, and questions remained, some of the farmers could see these models as being potentially useful. At least four farmers expressed a willingness to consider these models for their situation; two have followed up with Dirt.

Stewardship standards

A few of the farmers initially had concerns about some of the “stewardship standards” in several sample leases presented by the companies. Some farmers expressed concern that several terms seemed overly prescriptive even though many of those standards such as “controlling noxious weeds” appear in many farm leases. They questioned whether non-farmers might try to micro-manage their operations, a concern that was amplified because the non-farmers would be investment companies. Farmers identified trust between the parties, provisions for dispute resolution, and clearly spelled-out expectations about farming practices as important to addressing their concerns.

Farmers also questioned how the investment companies would quantify a benefit that the companies promote to their investors: improvements in soil quantity and health. They questioned how the farmers would be recognized and compensated for this. Further, they worried that if a farmer improved the land, and therefore increased its value, he/she would have to pay again for the added value upon purchasing the land. And, if an opportunity to sell ecosystem services such as carbon sequestration arose, who would benefit directly from the income stream—the farmer or the investor? At this point there are no clear answers in these investor models. (Questions about how the rewards of improved soil quality are apportioned between owner and renter are not unique to investor landlords.)

The advisors felt that the legal and financial documents were thorough, clear and sufficient for the various purposes.

VII. Advisors’ Analyses

In addition to review by farmers, several attorneys, financial advisors and other subject experts reviewed the legal and financial documents provided by the investment companies. ([See Authors and Advisors in Appendix G](#)) They were asked to review the companies’ responses to our questionnaire and to study and comment on the documents from the point of view of advising farmers.

The documents provided by the companies varied. Dirt, IVF and LFF provided a total of five sample leases, along with supporting documents. Advisors also received legal and financial documents for the first LFF project, which had not been available at the beginning of the study. EAF lacked comparable legal and financial documents for our advisors to provide an adequate review.

Overall, the advisors felt that the legal and financial documents were thorough, clear and sufficient for the various purposes. The main area of general concern centered on whether financial arrangements would work for the farmers, especially the timeframes specified for the purchase options. Since some leases were generic (i.e. lacking specific rent, buyout and other transaction costs), it was impossible to fully assess this important aspect. In some cases, hypothetical financial projections could be generated based on the factors and percentages in the legal documents.

A. Legal Analysis

To fully assess how these investor models might be appropriate for farmers, we requested legal advisors to review the leases and other legal documents provided by Dirt, IVF, and LF. The following sections present key questions, risks, and considerations raised by these advisors.

Term length, renewal and termination

Legal advisors raised questions about the term length of some of the leases and how they might impact farmer purchase options and farm business planning.

The lease terms are structured to anticipate a sale within 6 to 10 years of initiating a lease. This did not seem unreasonable to advisors, but they noted that unforeseen circumstances can thwart even the best farm business plans. While one of the sample agreements provide for the lease term and the option to be available for as long as 20 years, this may be too long a window for many investors. Thus, it seems prudent that in any of these scenarios the farmer would try to make a purchase at the earliest possibility provided for in the legal documents. However, barring that, the agreements would allow farmers to confer with the company if they anticipated any difficulties in financing the planned purchase.

In leases with an expectation that farmers would exercise their purchase option before the end of a fixed lease term, it was not clear what would happen if farmers were still unable to purchase the property. We queried the companies about it. They responded was that it would depend on the circumstances. They expect that sufficient due diligence prior to signing the agreements provides a reasonable expectation for both parties that a sale will occur prior to the end of the lease term.

Lease terms in the agreements also impact farm planning. For example, one agreement is a fixed term lease that eventually converts to an evergreen lease with no expectation that the farmer will purchase the property. Evergreen leases automatically renew at the end of the term, and can be a useful tool for longer-term leasing. However, some legal advisors (as well as the farmers) viewed the evergreen term of only 2 years as too short. They felt that a longer, perhaps 5-7 year term length allow the farmer a better planning horizon. This term also lines up with customary loan terms for equipment and infrastructure, which would be more supportive of farm planning.

In another lease, either party can override the automatic renewal clause within 6 months of the termination date and terminate the lease without cause. Six months may not give a farmer sufficient

Not all leases reviewed protect the tenant if the property changes ownership.

time to make alternate plans. The investment company in question stated that it would have no interest in terminating a lease if the farmer were in compliance and wished to continue. Nonetheless the lease language gives the company the right to do so, providing the farmer with no contractual protection from a short-notice lease termination. Another reviewed lease addresses this risk for the farmer by specifying that only the tenant can terminate without cause, while the investment company would only be able to terminate based on tenant's default.

Assignment

Legal advisors noted that not all leases reviewed protect the tenant if the property changes ownership (to someone other than the tenant), or control of the property is assigned to another party. For instance, if the investment company goes out of business or is sold or transferred to another owner, the lease could be terminated by a new landlord. This would be the case even if a tenant has a lease without an option to purchase or "right of first refusal," or is unable to act on his/her option to purchase or "right of first refusal" at the time of transfer. At least one company's lease addresses this by stating that it is "binding upon all successors, assigns, agents and heirs of the Lessor." Most of the sample leases do not include this common farm lease clause, which provides continuity in the lease provisions in the event of a change in property ownership or control.

Default, disagreement, and conflict resolution

Default, dispute, and conflict resolution provisions in the reviewed leases could be improved according to the legal advisors. Termination of a lease may also result in termination of the farmer's option to purchase or the "right of first refusal." Therefore, sufficient due process provisions in a lease protect the interests of the farmers.

An arbitration clause in one of the leases was generally looked at favorably by the advisors. At least one attorney had concerns that the arbitration as structured could disadvantage the tenant and be costly. Advisors expressed a preference for mediation over arbitration as a first option for resolving disputes. One lease does allow either party to seek mediation prior to arbitration. Mediation addresses the dispute in such a way that would likely maintain a productive relationship between the parties. The bottom line for these leases is no different for other farm leases; they need robust dispute resolution clauses to protect everyone's interests.

Maintenance and repairs

Advisors found that investor company leases are challenged to address another important legal aspect of most farm leases—infrastructure maintenance and repairs, and related insurance concerns.

In general, the company leases specified the tenant as responsible for all maintenance. Advisors noted that this included items that are typically the responsibility of the landlord such as roofs, foundations, and heating, potable water and electrical systems. Advisors recommended that at the very least the farmers should carefully inspect the infrastructure prior to signing any agreement. The goal would be to identify any significant and potentially costly issues that might need to be addressed during the lease period prior to any purchase by the farmer since the purchase by the farmer is not guaranteed even when there is an option to purchase or “right of first refusal.”

Advisors advise that the farmer might negotiate with the investment company regarding the identified repairs so that responsibilities are more shared—and that this would be stated in the lease. For example, if a tenant pays to replace the roof in Year 5 but is unable to purchase the farm and departs in Year 9, the lease might stipulate that the landlord reimburses the farmer for the undepreciated cost of that repair upon the farmer's departure.

Advisors noted a general lack of specificity about maintenance standards required of the tenant. One lease requires that the farmer return the property to “as good a condition and repair as on the

Commencement Date,” but does not provide exclusions for “normal wear and tear.” The advisors noted that a lot can happen in 5-10 years. They further pointed out that omitting exclusions for “normal wear and tear” may not be reasonable without further clarification and documentation of baseline conditions.

Advisors observed that not all leases specifically addressed disasters such as fire, wind, and flood. The leases did not address key questions like:

- Who would be responsible to clean up and rebuild? To what standard and design?
- If a disaster diminishes use of the property, what provisions are made for adjusting rent payments or possible termination?
- How would a disaster impact the determination of the property's value and other factors in the case of an option to purchase?

Finally, leases were not always clear about the level of property loss insurance required to be carried by the tenant. They did not specify whether the tenant is required to insure the buildings to “full replacement value” or to “current actual value.” Lack of clarity on this point could lead to an insurance claim situation wherein the tenant only carried insurance to cover actual value, but the investment company expects any damaged property to be fully replaced and restored. As a result the farmer may lack sufficient funds.¹¹

Capital improvements

As with any long-term lease, these leases also address capital improvements on the farm. Dirt, IVF, and LFF all recognize the needs of farmers to make fixed capital improvements to grow their businesses, and the challenges of doing so on leased properties. These include farmer equity, lost capital, and securing financing. The companies address this challenge in different ways as reflected in their agreements. They are experimenting with ways to assist the farmer with financing improvements, and in some cases to address the farmer's equity in improvements.

¹¹ Further, the tenant may also lack funds to replace damaged infrastructure with something better suited to farm business needs. This may especially be the case if they are anticipating purchasing the property.

Advisors acknowledged that some leases appear to have made respectable efforts in this area. Legal issues that the advisors identified that need to be considered and clarified in a lease include:

- Approval process to undertake improvements;
- Ownership of improvements paid for by a tenant who subsequently discontinues leasing in good standing without purchasing the property; and
- Valuing improvements.

The valuing of improvements needs to be clearly spelled out in the lease agreements. For example, in some cases it may be fair for the company to reimburse the tenant for part of his/her investment if he/she leaves the lease situation in good standing and does not purchase the property. If a farmer does exercise his/her purchase option, valuing the improvement is important because it affects the appraisal that determines the farmer's purchase price. Some advisors shared farmers' concerns about investing in infrastructure improvements that added value to the farm, in cases where the eventual farm purchase price was to be appraised at market value. Unless the contributory value of the improvement is removed from the purchase price value, the farmers could end up paying for the improvement twice.

Stewardship standards

The leases contain various stewardship standards designed to protect the farm's natural resources, and encourage sustainable management in keeping with the values and goals of the investment company. In advisors' opinions, the best versions of these stewardship standards are relatively specific without being overly prescriptive of the farmers' activities. In some cases, there is room for greater specificity. For example, one lease required "organic farming methods," but did not explicitly require organic certification or adherence to certification standards, thereby leaving the requirements less rigid but also subject to interpretation. As with any farm lease, advisors noted, clarity about preferred and required practices will reduce the likelihood of misunderstandings.

Reserved rights

In a few leases the investment companies retain rights to extract sand, gravel, minerals natural gas

and/or other resources. According to the companies, this is done mainly to keep the farmer from engaging in such activities. But the best versions of these lease clauses would also restrict the property owner from doing the same. At minimum, they restrict the property owner from doing so in a way that would devalue the property below the option price, or interfere with farming operations. Some advisors thought that commercial wind and solar ventures should similarly be addressed to protect the interests of both parties.

Conservation easements

The reviewed leases typically allow the investment company to sell a conservation easement on the farm. The best versions of these lease clauses require the company to consult with the farmer and allow them final approval of the easement terms. This is particularly important if the farmer expects to be leasing for an extended period or to purchase the property, since a conservation easement can affect the farmer's business, including the development of farm infrastructure and farmer/farm labor housing. The advisors felt that the leases were generally clear about how an easement sale would affect the farmer's eventual purchase price.

B. Financial Analysis

To fully assess whether these investor models work financially for farmers, the same documents from Dirt, IVF, and LFF were also reviewed by the project's financial advisors. The following sections present key questions, risks, and considerations raised by the financial advisors. As noted above, it was not the intent of this project to judge whether farmland investment is a "good idea" or whether they work for individual investors or companies. Farmers' decisions to engage with investment companies will depend on their particular situation, the property in question, the arrangement put in front of them, and available alternatives. It remains to be seen how these new models will perform for farmers (and investors). Only time—perhaps 5-10 years—will tell.

Rental rate calculations

Dirt, IVF and LFF base their rental rates largely on their acquisition costs rather than market rents. However other components like conservation easements, property taxes, and insurance can factor into rental rates. These leases are often "triple net"

Farmers typically find above-market rental rates an acceptable trade-off for the added security of tenure, particularly if the farmer has an option to purchase or right of first refusal.

leases wherein the farmer is expected to pay property taxes, insurance and maintenance in addition to the rent. Dirt uses the theoretical financing costs on the farm with Farm Credit as a benchmark for its average rental rates over the term of the lease. IVF annual rents have been based on 3.5% of acquisition costs. The rent for the first property LFF purchased is based on the acquisition costs with a formula for downward adjustments if an easement is sold during the lease period. This annual rent starts at 4% of acquisition cost on the unconserved value and then the percentage increases annually. Dirt and IVF may also make adjustments to the rent if an easement is sold during their ownership.

All three companies will adjust rental rates (e.g., reduced rents, rent “holidays”) to accommodate farmer needs, particularly early on in the lease period. Farm business goals and projections factor into rent adjustments.

Since rent is based on acquisition costs, a property that is valued “too high” (well above agricultural value) will generally not work in these models unless the value of the property can be reduced, such as with a conservation easement sale.¹²

Another variable related to property values that can impact the viability of rental rates for the farmer is property taxes. Often the companies require the farmer to pay the property taxes as a component of the rent. This may be a manageable or even minor cost if the farmland is enrolled in a current use property tax assessment program. But including property taxes in the total rent may have a greater impact when a house is involved. (See [Kingsbury](#)

¹² As noted earlier a high value property that lacks a conservation easement in place at the time of acquisition can result in a high rent for the farmer until the easement is purchased. This can be avoided with “pre-funding” of the easement.

[Market case study in Appendix D](#)) Similarly, if the tenant is required to carry property insurance in addition to the base rent, this could push the costs significantly above a typical rental cost, particularly when a house is involved. However it is not uncommon in farm rental situations for both parties to carry insurance for property loss.

The companies report that their calculations typically result in initial rents for open land at, or slightly above, market rents. Farmers typically find above-market rental rates an acceptable trade-off for the added tenure security, particularly if the farmer has an option to purchase or “right of first refusal.”

Rent increases

All agreements provide for rent increases but vary in how these are calculated. Several leases include built-in rent increases in which an annual rent is adjusted according to a formula specified in the lease. The companies sometimes design rent increases as an incentive for the farmer-tenant to act on his/her purchase option or right of first refusal. Some advisors commented that the built-in rent adjuster in LFF’s formula could be simplified.

Dirt reports built-in rent increases that are generally structured according to the farmer’s business goals and projections and aligned with the farmer’s ability to generate revenue from the property. For example, a lease with a dairy farmer and involving a conversion to organic might include a lower rent during the conversion period with an increase after certification.

IVF has a fixed rent increase of 3%. This is considered the average rate of consumer inflation, but advisors noted that it is not clear that farm rents actually track inflation. Where IVF intends to buy and hold the property, and lease to the farmer indefinitely, it is possible that an initial market rate rent could exceed market rate over time, particularly due to compounding. IVF is willing to renegotiate the rent in such a circumstance, although the reviewed lease lacks such a provision. It is also possible that the base rent could track below market rents if the demand for land pushes the market rate well above inflation. Financial advisors recommended that farmers look out 5-10 years to see how much rent is likely to increase so

that they can plan appropriately.

Variable rent

In addition to the base rent, IVF has an additional component referred to as “variable rent” that requires the farmer to share part of his/her income with the company. Once a farmer crosses a given income threshold, typically three times the base rent, a variable rent amount is added to the base rent based on a formula applied to a farmer’s income. The income threshold and the amount of variable rent due will be based on either gross revenue or net income. The farm income used in the formula is only income directly derived from the land owned by IVF, and not the farmer’s entire operation, unless the farmer leases its entire operation from IVF.

Several financial advisors and some focus group farmers had difficulty understanding the exact financial implications of the variable rent provision based solely on the lease clause. IVF responded by providing a spreadsheet that helped make the provisions clearer when variable rent is based on gross revenue.

Lease provisions in which the variable rent is based on net income do not address key questions about the farmer’s capital and other investments in growing the farm business—and his/her ability to make a living wage. For example, are capital investments factored into calculations of net income, and if so, how? An increase in a farmer’s gross income at any given point in time does not directly translate into a corresponding and proportional increase in net income, such as during a growth phase involving a significant amount of capital investment. Further, is net income calculated before or after the farmer takes a draw equivalent to a living wage?

IVF explained the logic behind variable rent as a means for the investors (who helped secure the property for the farmer) to share in the financial success of the farm business. Variable rent was part of IVF’s original model, in which the farmer would rent indefinitely and rental income would be the main source of investor return. Variable rent offers a way for IVF to provide additional returns to the investors without, in theory, making the rent unaffordable or unfair to the farmer.

IVF’s rationale for variable rent met with resistance from farmers and a number of advisors. For some focus group farmers, the variable rent provisions proved a disincentive to consider working with IVF. Some farmers had difficulty with variable rent from a philosophical standpoint. They pointed out there are many factors that lead to the financial success of a farm business, most of which lie with the hard work and capital investment of the farmer. Farmers and advisors recognized IVF’s role in growing the farm business. However, some farmers and some financial advisors viewed the revenue sharing formula as disproportionate to the company’s contribution to the farmer’s financial success.¹³

Several financial advisors suggested that the income threshold presented after which variable rent is triggered may be too low. Further, they felt that the formula could be a disincentive for business growth because the farmer won’t fully realize the returns on his/her investments and labor. Advisors pointed out that the variable rent provisions reviewed do not recognize that some strong income years may be necessary for the farmer to offset years with poor returns or losses. One financial advisor suggested that the formula could be improved with a sliding scale wherein the variable rent changes as revenue increases.

The impact of variable rent on a farmer’s ability to exercise his/her purchase option or “right of first refusal” in the agreement will vary. If a farmer purchases the property early enough in the farm’s business growth phase, variable rent costs may be minimal or may not even get triggered. In other scenarios, the additional cost of variable rent may make it difficult for a farmer to save money for a down payment or closing costs.

When presented with the questions and concerns of participating farmers and advisors, IVF responded by noting its 10 year track record of successfully working with farmers using agreements that include a variable rent provision. IVF reports that this includes many farmers for whom IVF has purchased multiple properties. They further said that every farmer with whom they have worked has inquired

¹³ The relative role of the company’s financial “stake” in farm business growth may be further reduced when rental costs are above market rents or nearing the cost of ownership.

at some point about expanding their relationship. The variable rent structure works for some farmers, who presumably also feel that their rent provisions are fair. IVF also emphasized that prior to signing any agreements, they help farmers understand the variable rent provisions in detail, as well as their implications for an expanding farm business. This includes providing farmers with a spreadsheet that projects the variable rent under different income scenarios.

Costs of renting compared to ownership

Advisors stressed the importance of comparing the costs involved in these agreements with other options that may allow farmers to make a direct purchase. Advisors pointed out that, when combined with property taxes, insurance and maintenance, the cost of renting can approach the cost of financing a property purchase via a commercially available mortgage. With any of these agreements, costs during the rental period that start out well below the cost of purchase could be pushed beyond it once built-in rent adjusters kick in. Advisors noted several reasons why a farmer would go forward with an investment company if the costs of the agreement approximated conventional purchase. These reasons are listed in [Section VIII](#).

Maintenance and capital improvements

As described in the legal review section above, addressing maintenance and capital improvements during the lease period can be challenging. These agreements put a farmer at risk of incurring major repair costs during a lease period that are normally the responsibility of the landlord (e.g., water and septic system repairs). These costs will hurt a farmer's financial position overall if he/she is unable to lease long enough to recover repair costs or unable to ultimately purchase the property. Incurring significant repair costs can also compromise the farmer's ability to make a purchase. To identify these risks, the advisors (and best practice) recommend inspections of infrastructure prior to leasing and in anticipation of purchasing. Even if major maintenance is identified and deferred until purchase time, a farmer runs the risk that lenders may be unwilling to finance the purchase until major repairs are addressed. Where the farmer is leasing without a definite purchase plan, advisors noted the importance of the term length of the lease with respect to capital

improvements. A farmer and a lender typically both need assurance of a secure lease for the term of a loan, if not until any capital improvements are fully depreciated. Improvements funded by USDA-NRCS have the same requirement.

When the intent is to purchase the farm, advisors urged the farmer to have a business plan with a realistic chance of making the purchase and that predicts a high likelihood of seeing a return on investment for the improvements with lifespans longer than the lease period. However, any farmer that invests in property improvements should do so knowing that even with an option to purchase or "right of first refusal," a purchase is never guaranteed until it has closed.

Advisors stressed the importance of comparing the costs involved in these agreements with other options that may allow farmers to make a direct purchase.

The advisors suggested that farmers could negotiate to protect themselves against a loss of investments in property improvements. Legal agreements with the companies might specify that a farmer who leaves a leasehold in good standing receives compensation for the undepreciated value of the improvements. In the case where a farmer is going to purchase the farm based on an appraisal at the point of sale, the contributory value of the farmer's improvement should be deducted from the market value purchase price. Thus a farmer would not pay twice for an improvement, which was a major concern of the farmer focus group.

In some situations the companies are willing to finance improvements either by adding a finance charge to the rent, or by amortizing the cost over the lease term and increasing the rent in proportion to the investment. Advisors cautioned farmers to compare these costs to the cost of financing with a conventional lender. Investment company financing of improvements might be financially favorable for a farmer over the short term. However, in some

cases the finance charges do not expire. So if a farmer is leasing for an extended period, these additional costs may outlive the improvement, and exceed the cost of financing the improvement directly.

In the models where the farm's acquisition costs for the investment company are the basis of determining its value for the farmer's future purchase, company-paid improvements are added to acquisition costs in some of the arrangements. In these situations, the value of the improvement is also appreciating at a fixed rate along with the other acquisition costs, determining the cost to the farmer to purchase the property. Advisors noted that it is possible that this approach could result in a higher cost for the farm than if the purchase price is based on an appraisal.¹⁴

Organic certification

As noted above, organic certification may be required or encouraged by the company, or desired by the farmer. Who pays for this investment—and how it impacts a farmer's future purchase price—depends on the situation and the company. Some companies have been willing to assist with the upfront costs of this transition through both favorable financing and reduced rent. In cases where the land is not initially certifiable, IVF has offered interest-only financing on organic soil fertility amendments. Unless the farmer is renting for more than three decades, the reviewed financing terms appear more favorable than the available conventional financing for these costs.

To account for the organic transition and its effect on farm profitability, both IVF and Dirt have demonstrated a willingness to adjust rents in the early years of a lease. However, if a farm's future purchase price is based on an appraisal valuation, converting the land to organic may result in a higher rate of appreciation and a higher farmer purchase price.¹⁵ Where an appraisal will be used to determine the purchase price for the farmer's

buyout, the conversion of the land to organic by the farmer may result in a greater level of appreciation in the farm and a greater increase in the cost to the farmer to buy the farm.

Savings accounts and pre-payment

Companies offer mechanisms to help farmers prepare for a future farm purchase. Several companies have offered savings accounts to which farmers can add money during the lease period toward the eventual purchase. However, the accounts reviewed during the project did not reduce the appreciation on the farm or the purchase price for the farmer.

Advisors and farmers alike questioned why a farmer would put money in such an account over his/her own savings account. One company, LFF, appears to offer a financial mechanism by which a farmer gains equity by reducing the acquisition cost—and thus the basis of the farmer's purchase price. One clause in an LFF purchase option offers a pre-payment option that directly reduces the initial acquisition cost, and thus appreciation during the lease period. This provision provides for a refund to the tenant if the tenant does not purchase the farm and leaves in good standing. Companies attempt offer financial options to help farmers save for a future purchase, but in some cases it is not clear that they offer unique benefits over what may be available through conventional financial institutions.

Factors determining a farmer's ability to purchase the farm

Farmers assessing whether to work with investment companies need to weigh the risks and benefits of agreements with respect to their future ability to purchase the farm. All farmers consider a range of factors, such as interest rates, when considering their ability to purchase a farm in the future under any arrangements—whether via a direct, outright purchase or via a lease-to-own agreement with a private individual or other entity. Many of these factors are not unique to these investment company models and some are outside of the farmer's control. This section focuses on those factors that are either unique to these models or that differ compared to others, such as the previous example of a savings account. The discussion is organized around the following elements of “affordability” for a farmer's purchase: the farm property's purchase

¹⁴ Most farm capital improvements do not increase a property's appraised value in direct proportion to the actual cost of the improvements. In fact, many capital improvements add no appraisal value or will actually depreciate, sometimes rapidly.

¹⁵ Appraisers have noted that certified organic land has achieved somewhat of a premium in certain regions where such land is in high demand, such as in parts of Vermont's Champlain Valley where organic dairies are growing in number and size. However, this extra value on certified organic land generally is still rare.

Investment companies minimize their risk by applying their own professional scrutiny—including to the farm business plan—before committing to a particular arrangement with any prospective farmer-tenant.

price at the time of the purchase option and the farmer's ability to pay that price.

Farmers' ability to afford a farm purchase is based in part on their financial capacity at the time of purchase. This is determined largely by their business profitability and, by extension, their ability to secure financing. All farmers should have a realistic business plan as a foundation for making decisions about land tenure under any arrangement. All farmers should recognize that business plans fluctuate, particularly for new start-up farms and farms making major changes and planning for significant growth. In this context, a business plan will help determine whether the farmer will be able to pay the eventual purchase price as determined in these agreements. For reasons outlined earlier, investment companies minimize their risk by applying their own professional scrutiny—including to the farm business plan—before committing to a particular arrangement with any prospective farmer-tenant. As part of this, as well as their values-driven motivations, the investment companies offer some assistance with business planning. And while this additional level of due diligence and expertise can benefit a farmer, the advisors emphasized that farmers should also work with their own advisors.

Some agreements provide for extending the lease term and purchase option. This can be a benefit to farmers, but it comes at some cost. Making a five year business projection for a farm (the earliest purchase option among the agreements) is challenging at best under any land tenure arrangement. So by providing leeway to extend the lease term for several years without jeopardizing the purchase option, companies recognize that a farm business may need extra time to make a

purchase. However, farm rents and purchase prices increase during these "extension" years, presumably as a disincentive for farmers to push out the purchase option. Therefore, it is financially advantageous for the farmer to make the purchase at the earliest opportunity.

In these agreements, the **future purchase price of the farm** is based on two methods. Regardless of the method used to determine the property's future sale price to the farmer, market conditions also will impact affordability for the farmer. The bottom line is that, for the farmers, the affordability of a purchase cannot be guaranteed.

The two methods for determining a farm's sale price to the farmer are:

1. an appraisal at time of farmer purchase, and
2. a fixed rate of appreciation.

The use of appraisals to determine the property's price at the time of the sale to the farmer has mixed implications for farmers, often for reasons that cannot be anticipated or controlled by the farmer or company. A key advantage for the farmer is that the price at which they purchase a farm will be at market value. This will help satisfy the requirements of lenders to which the farmer may apply. Most farmers will need to get an appraisal at purchase in order to acquire a mortgage. At least one of the companies appraises its properties annually as a part of normal business practice.

Advisors however noted one major potential downside for the farmer: a farm may appreciate beyond the original expectations in a strong farm real estate market, possibly putting the farmer's purchase price out of reach. A projection of market price changes could be made as part of a farmer's due diligence prior to signing on with an investment company. But estimating appraised market prices 5-10 years out from the initiation of the lease will provide the farmer little certainty of the buyout costs they will face. Similarly, if any organic premium develops, land converted to organic by the farmer may lead to an unprojected increase in appraisal value and the purchase price. When the future purchase price at the time of sale to the farmer appraises at a value beyond the expected appreciation rate, affordability could be an issue.

This could occur even if a farmer has met his/her business goals or if a conserved farm has an option to purchase at Agricultural Value (OPAV) provision. ([See OPAV Explained, page 30](#))

Instead of utilizing appraisals, some agreements base the future sale price on a **fixed rate of appreciation** applied to the company's acquisition costs. The acquisition costs may include more than simply the price of the farm paid by the investment company. Sometimes, the acquisition costs include the transaction costs for the company in addition to the purchase price for the company. For instance, Dirt includes closing costs from its purchase of the farm plus the fixed appreciation on those closing costs during the lease period in the sale price.¹⁶ This provision was not popular with the focus group farmers and was also a concern of some advisors. Dirt explained that if it didn't address these costs in this way, it would have to increase the fixed appreciation rate on the farm purchase price, since either way it needed to recoup those costs to see a return on investment.

Farmers are sometimes given the option to pay the closing costs for the company's purchase of the property at the outset of the lease. This is advantageous because later the farmer does not need to pay for appreciation on these extra costs when he/she purchases the farm. The farmer will only need to pay the appreciated value of the farm itself. If the farmer is successful in later purchasing the farm, he/she will come out ahead by having paid the additional initial acquisition cost upfront. But if the farmer does not end up purchasing the farm, he/she will not be able to recoup those costs.

Investment company agreements currently use fixed rates of appreciation between 1% and 4%. Utilizing an appreciation rate of 3-4% approximates the long-term average rate of inflation in the U.S. The specific appreciation rate used will have a significant impact on the farmer's future purchase price. For example, a \$300,000 farm appreciating at a fixed rate of 1% per year will cost the farmer \$318,500 in 6 years and \$331,400 in 10 years, equivalent to a 6% and a 10% increase in years 6 and 10 respectively. However, at a fixed rate of 3% per year, that same

farm will cost the farmer \$358,000 in 6 years and \$403,000 in 10 years, or a 19% and a 34% price increase in years 6 and 10, respectively. As noted by several advisors, the impact of any appreciation formula on the future price can be lessened if a farmer acts on a purchase option at the earliest opportunity provided for in the Option (typically 5 or 6 years). Not all farmers will be financially able to do this.

One benefit of the fixed appreciation scenarios for the farmer is that he/she has a clear and largely certain target to meet from the outset, based on the formula in the purchase option. The farmer can see exactly what the farm purchase price will be in each of the years that he/she can act on the option. Thus, the farmer can make a firmer assessment of future affordability and incorporate this information into the business plan.

On the other hand, depending on market trends during the lease period, a property price based on a fixed rate of appreciation could exceed the appraised price. This could also be the case for a fixed future sale price negotiated at the outset of the agreement. In both cases, the farmer may be unable to secure lender financing to purchase the farm, or may have to secure additional funds beyond traditional lenders. Any future purchase price that exceeds the property's market value as appraised at the time of purchase could compromise affordability.

A farmer *could* come out "ahead" under certain conditions if a farm appreciates at a higher rate on the open market than at the agreement's fixed rate. While we did not analyze the typical average rate of appreciation of farms in New England, housing prices typically appreciate by 4-6% in an average market – and housing often makes up a large percentage of a farm's total value. So even with a 3% fixed rate of appreciation, a farmer in New England could have a lower future purchase price when compared to a property's market price as appraised at the time of purchase. Where appreciation is fixed as low as 1%, there is more reliance on the rental rate to provide a return to investors, and the rent is based on a higher percent as a proportion of the farm value in the examples reviewed for this project.

¹⁶ Dirt reports that the closing costs typically are rather minimal, except in Vermont where there are higher property transfer taxes than most other states. In Vermont transactions, the transfer tax is by far the largest closing cost.

The rate of appreciation should not be confused with the rate of return to the investor. Since the investment company has overhead costs, investor returns will be below the appreciation rate. Currently, with low bond values and inflation historically low, these low rates of return work for some investors. But as bond rates or inflation rise, it may be harder for the companies to attract investors with returns at the bottom end of this range unless other income sources from the farms increase, such as rents or ecosystem services.

Conservation easements can play an important role in determining a farmer's final price under these agreements. An easement secured by the investment company at the time of the purchase or within a few years of purchase has several advantages for the farmer. It may reduce the rental cost by reducing the acquisition cost basis that determines the rent. In the cases reviewed, the easement sale will reduce and add greater certainty to the purchase price for the farmer where there is a fixed rate of appreciation built into the purchase option. But a price adjustment cannot be taken for granted in all situations. Therefore the farmer should have an attorney review the purchase option language for clarity about how a conservation easement will affect the final price. Further, in cases where the farmer's purchase price will be based on an appraisal several years out, the sale of a conservation easement at the outset of the agreement does not provide farmers certainty about purchase price or affordability.

An easement sale, when the farmer is acting on his/her option at the end of a lease period, will lower the farmer's purchase price. However, if the purchase price for the farmer is based on a fixed rate of appreciation, and this exceeds the appraised fair market value, selling an easement while satisfying investment company expectations and farmer affordability may be difficult. Conservation entities buying the easement will only pay the difference between the appraised fair market value and the appraised conserved value. Thus, if the appreciated value is higher, the farmer may be expected to pay to the investment company the conserved value plus the difference between the appraised value and the appreciated value. However, complicating things further, the conservation organizations likely will want to see the appraised conserved value or a lower value

OPAV Explained

In Vermont and Massachusetts, more recent conservation easements contain the Option to Purchase at Agricultural Value (OPAV) clause. OPAV requires that the affected land be sold at a price that reflects its agricultural value, rather than a price influenced by non-farming market demand. With OPAV clauses, once a sales contract is signed for the sale of the farm, the easement holders have the option to pre-empt the sale and then purchase the property at its agricultural value. However, this only applies if the farm is being sold outside of the family. In Vermont, the easement holders are further restricted in that they may not act on the OPAV if the farm is being sold to a commercial farmer as defined in the OPAV clause. But the easement holders also can waive that option and allow the sale to go through at the agreed upon price. Vermont easement holders have already waived their option and allowed one of these farms to be sold to one of the investment companies, as described in the easement section of this report.

In Vermont, the OPAV does not allow easement holders to act on their option when the buyer is a farmer, when the farm is in turn sold to the leasing farmer (or any other farmer) the easement holders will not be able to influence the resale price. Thus, if there is fixed rate of appreciation built into the investment model, and that price is higher than the agricultural value as determined by the formulas in the OPAV, the sale can still go through, assuming that the farmer can still get financing. On the other hand, if the sale to the tenant farm falls through, and the investment company contracts to sell with a non-farm buyer, the easement holders could act on their option and purchase the farm at agricultural value based on the formula described in the OPAV clause. Massachusetts easement holders could act on the OPAV in the case of any sale to any party not directly related to the seller. However, if prospective buyers can demonstrate that they intend to keep the land in active farming, the easement holders may still waive their option.

used as the sale price and may refuse to fund an easement where the farmer is still expected to pay above the appraised conserved value.¹⁷

Only time will tell how market conditions for a specific property will impact the affordability of a farmer's purchase. Even if a farmer's business develops as projected, under certain combinations of agreements and market conditions an affordable purchase price in the future is not guaranteed. The researchers are eager to monitor—based on the information available from farmers and companies—how current agreements play out for farmers and the investment companies over the coming years.

VIII. Guidelines for Farmers

Access to capital and the affordability of farmland are perennial challenges for most farmers. The investment models examined here attempt to address these challenges through the use of investor capital. No one, including the investment companies, assumes these models will work in all circumstances. These models are very new. It will take at least 5-10 years for them to be truly tested and for further analysis to determine how these arrangements work for farmers over time.

When to consider investment companies

There are good reasons why a farmer might choose a relationship with IVF, Dirt, LFF or a similar company over a conventionally financed purchase. As detailed above, these include:

- The farmer cannot finance the purchase of a property without the sale of the conservation easement, and further, no other assistance is available to the farmer to secure the farm until conservation easement funds are available. An investment company can secure the property relatively quickly, providing a bridge to the eventual sale of the easement and a purchase by the

¹⁷ There is a precedent for this in Vermont. The VHCBC has rejected projects where the sum of the sale price and the easement value exceeded the "before" or fair market value in the appraisal used for determining the easement value. Thus, the total received by the seller would have been greater than fair market value, creating an extra windfall for the seller utilizing public money, which the VHCBC would not support.

Only time will tell how market conditions for a specific property will impact the affordability of a farmer's purchase.

farmer. However, this still may not be an option if the easement value is so high that the financials do not work for the company, farmer or conservation organization.

- A desirable property may come on the market when the farmer is not in a financial position to make an immediate purchase. For example, a farmer is renting land that goes on the market at a point in the farm's business cycle where he/she is unable to purchase it immediately. Similarly, if land becomes available in an area where competition for land among farmers is high, a farmer may wish to secure this additional land for the future without immediate plans for it.

Some farmers would rather use available savings and/or borrowing capacity to purchase infrastructure, equipment or livestock when it is clear that doing so will provide better financial returns to the business than investing in land.

Deferring land debt is often a sound strategy for early stage farmers, regardless of how the debt is financed. This strategy allows the farmer's business to grow more rapidly, while still maintaining the opportunity to purchase that farmland in the future. This may be particularly true when the farmer seeks to take on additional land as part of an expansion. The farmer may not want to take on too much debt all at once. In one example, a farmer had an option to purchase a leased farm where he milked cows at the same time that another leased parcel of cropland came on the market. It made more business sense to the farmer to focus his capital on purchasing the farm where he/she milked cows, and then to work with the investment company to

purchase and hold the cropland until the farm business was in a better position to take on additional debt in order to purchase the cropland.

- The investment company may be seen as a more stable and supportive landlord than a private individual. In some cases, the farmer may only be able to secure a long-term lease on certain land if the investment company purchases the property.
- The farmer wants the investment company to secure land that he/she cannot purchase immediately, but has a reasonable chance of eventually purchasing. This may be preferable to leasing farms from other types of landowners where the prospect of purchase is unknown or unavailable, or where the eventual purchase price is unknown.
- The farmer is a new, start-up operation without sufficient capital or a track record to qualify for conventional financing. A relationship with an investment company may enable the start-up farmer to incubate in place with a good chance of eventual ownership.¹⁸
- The investment company provides expertise that helps the farmer with a specific transaction, or with analyzing the likelihood of a future purchase. This might include working with the farmer to navigate a complicated purchase, or providing assistance with business planning and decision-making with a view towards the farmer's long-term viability.

Farmers working with investors

These and similar investor models may be a viable and valuable option for some farmers in New England. But will they be the *best* option, and if so, which models offer the best opportunity for which farmers? The decision to enter an agreement is one that a farmer should make only after careful consideration and analysis. Farmers should not put themselves in a position of obligation to the

investment company until they have done their own due diligence and compared alternatives.

The following are a few guidelines for farmers considering working with an investment company:

Recognize that each investment company operates differently. Each investment company operates differently—sometimes in significant ways. One company's approach may be more suitable to the farmer's particular situation and preferences than another. Therefore, it is important to understand each company on its own terms. Undertake due diligence of the model and any agreements. Check with farmers who have partnered with the company.

Assemble a team of advisors. Farmers should assemble a team of advisors to assist them in evaluating the offering of any given company and comparing it to other options. At minimum, an advisor team should include a farm business advisor and an attorney. Land For Good, University of Vermont and other organizations that work on land access and are familiar with these models and land transactions can provide assistance. Depending on the circumstance, farmers also should consult with agricultural land trusts, other conservation organizations and farm lenders.

Develop a business plan that compares alternatives. Farmers should examine how the cost of leasing from an investment company compares with the cost of ownership. Their business plan should examine if and how they can pursue an immediate purchase by more traditional means. A farmer should examine the business viability of operating during the lease term of any agreement. If a farm purchase is the goal of leasing from an investment company, a farmer should assess that likelihood under the terms of the agreement.

Research the availability of other financing. Other financing options may be available to farmers at least equally favorable to those of an investment company. State, USDA/Farm Service Agency and Farm Credit loan programs may allow a farmer to make a more immediate and affordable purchase. Other possible financing options include owner-financing, a lease with an option to purchase from the original owner, land contracts, family assistance, crowdfunding, and taking on partners.

¹⁸ This would only apply with LFF since neither IVF nor Dirt works with start-up farms.

Research the potential role of conservation easements and land trusts. If there is no easement on a farm of interest, a farmer may wish to consider use of an easement to help with affordability. He/she should consult with land trusts and other conservation organizations early on about their interest in the property. The farmer should determine the type of assistance a conservation organization can provide, including upfront funding to bridge to the closing on a conservation easement. Conservation organizations have been able to address this gap directly without the involvement of investors.¹⁹ At the same time, the farmer should ask about the organization's willingness and ability to work with an investment company. If an easement already exists on a property, the farmer needs to understand the implications of the easement, both generally (particularly those with an OPAV) and for any potential arrangement with an investment company.

Invest time into relationship building. All parties should get to know one other before pursuing any agreement. The more documentation that farmers can provide to investment companies the quicker and easier the relationship can develop. This information should clearly describe their farm business, management background, financial capacity and plans for the future.

Understand the cost of leasing. A farmer should compare the cost of leasing from an investment company to the market cost of leasing from other landlords, and to the cost of direct ownership with conventional financing. If a farmer intends to lease indefinitely, it is important to project changes in lease costs, especially relative to built-in rent increases and variable rent tied to farm revenues.

Understand how improvements and repairs are handled in the lease. When an investment company purchases the housing and infrastructure, they are generally expecting the farmers to be responsible for all maintenance and repairs. Thus, farmers should inspect all existing infrastructure prior to finalizing any agreement. They should

budget for any costs that will need to be incurred during the lease period, and consider the financial implications for their business. Farmers should identify infrastructure improvements that will be needed during the lease period, and they should consider how improvements paid for by the farmer will be addressed in the lease, and potentially in the purchase price to them of the farm.

Consider acquiring infrastructure separately. When possible, farmers should consider purchasing house and farm infrastructure separately from—or earlier than—the remainder of the farm property. For both farmers and investment companies, maintenance, repairs and capital improvements of infrastructure can be challenging during the lease period, and as to account for in a future purchase. Separating the ownership of these aspects can make the arrangement much less complicated for both parties in many cases.

Understand the costs of a future purchase. Based on their business plan, farmers should assess the viability of purchasing the property within the context of an investment company agreement. Farmers should understand the implications of different bases for determining their purchase price, whether based on a pre-agreed price, a fixed rate of appreciation or an appraised market price at the time of purchase. As described earlier, in many situations it may be in the best interest of a farmer to lock in a pre-agreed price at the start of an agreement or to work with a fixed rate of appreciation in order to reduce later uncertainty. However, in some cases, working with an agreement where the purchase price is based on an appraisal may better suit the farmer's situation even if it leaves the future price more uncertain.

Ensure that the lease and related documents provide adequate tenure security. Any lease should specify how disputes will be handled and should spell out clear dispute resolution and mediation procedures. Leases and purchase options should be bearing on heirs, successors, buyers, agents, and assigns. In cases where a farmer will lease indefinitely, longer term leases will provide more security. Further, in these cases, “rolling” or “evergreen” terms can provide more security than, for example, a standard renewable term.

¹⁹ For example, the Vermont Land Trust (VLT) has used a variety of approaches to help farmers secure unconserved farms until easement funds can be acquired, a process which typically takes 1-2 years. For instance, VLT has provided interest-only loans or assisted the farmer to acquire bridge funding. In some cases VLT purchased a farm and leased it to the farmer until the transaction was completed. However, this option is not always available in all states.

A socially motivated investor...can contribute to the sustainability of farmers and their communities.

Prepare to negotiate – and to opt out. These investment companies express a willingness to work with farmers to attempt to accommodate their needs in these arrangements, provided that it makes financial sense within the context of the company’s business parameters. With the help of their own professional advisors, farmers can advocate for their own needs and suggest creative options that work for both parties. Farmers should never feel obliged to enter into any agreement that they ultimately determine is not in their best interests, even if they have received significant support and technical assistance from the investment company.

IX. Concluding Thoughts

Who owns the land matters. USDA economists state, “The ownership of agricultural land can have far-reaching implications on the food and fiber system.”²⁰ How that land is held, by whom, and the relationship between the land holder and the land user can play out in many ways. Concerns about land tenure, control and stewardship are legitimate, especially with today’s unprecedented challenges to farm entry and land access.

Private capital investment in farmland purchase is not new. It is growing globally at what some consider to be alarming rates. However, the “values-based” farmland investment models we studied are new and innovative. They are evolving and not fully tested. Their creators and the individuals who invest with them are to be commended for innovating in this arena. While farmers in our study who critiqued the models were skeptical in some ways, they also saw the potential for farmland investment to have a positive role. Under the right circumstances, farmland investment companies have the potential to provide farmers with stable tenancy and a path to land ownership.

A socially motivated investor who takes a modest return on investment, encourages land stewardship, and values farming opportunity can contribute to the sustainability of farmers and their communities. All the investment company representatives in this study emphasized that their arrangements with farmers can be customized. It will be interesting to see in coming years which variations stand the test of time, and whether they can provide long-term benefit to the farmer, the investor and the land. We look forward to continuing our dialogue and exploration together.

²⁰ Nickerson, C., Morehart, M. et al. (2012) USDA ERS Economic Information bulletin Number 92. February.

APPENDICES

[A. Project Methodology](#)

[B. Request for Information and Additional Questions for All Investor Entities](#)

[C. Guiding Questions for Farmers](#)

[D. Case Studies](#)

[1. Kingsbury Market Garden, Vermont](#)

[2. Saratoga Draft Power Farm, New York](#)

[3. Morgan Hill Farm, Vermont](#)

[E. Northeast Farm Access Profile](#)

[F. Focus Group Participants](#)

[G. Authors and Advisors](#)

APPENDIX A

Project Methodology

A. The Companies

For this investigation, we selected four entities to study in depth, with their cooperation. The goals were to: learn as much as we could about how the companies worked; collect feedback from farmers about the companies' approaches and strategies; and enable dialogue between the farmers and the entities.

We had two criteria for selecting the entities. They had to be active in New England. They had to portray themselves as “values-based”—promoting social goals, not just a return to investors. Initially we identified four entities that met these qualifications: Dirt Capital Partners (Dirt), Iroquois Valley Farms (IVF), Entrepreneur Agrarian (EA), and Northeast Farm Access (NEFA).

We sent email invitations to each entity, explaining the project and the requirements for their participation. We stressed our collegial approach:

***We invite you to participate.** We believe that both farmers in New England and investors will benefit from exploring together how these models play out with regard to geography, finances, security, legal arrangements and other factors. We have selected your company because you exemplify many of the values we share, and because you are doing—or hope to do—business in New England.*

The entities had to be willing to be as transparent as possible, but we respected proprietary boundaries. They had to be willing to provide information and to participate in a face-to-face dialogue with Vermont farmers who had reviewed their materials. They were expected to complete a comprehensive questionnaire (see Appendix B). We had clear communications and a shared commitment about proprietary information and confidentiality. In some cases, there was information which the investors were willing to share with the researchers, advisors, and the farmer focus group, but not publically.

Three of the invited entities accepted our invitation. NEFA declined to participate. Toward the end of the project, NEFA shared some information about the company. ([See Northeast Farm Access Profile, Appendix E](#)) But NEFA did not receive the questionnaire, participate in the focus groups or receive the same scrutiny as the participating companies.

After we started the project we became aware that IVF, through an affiliated company, Working Farms Capital, partnered with Slow Money NYC to create a separate investment company called the Local Farms Fund (LFF). LFF was welcomed as a full partner in our research. LFF representatives provided us with information and documents for our review. The researchers also worked directly with the farmer negotiating land tenure with LFF in its first project--a farm in Saratoga County, NY, adjacent to Vermont. ([See Saratoga Draft Power Farm case study, Appendix D](#))

B. Participating farmers

The potential for success for farmland investor models lies in their attractiveness for farmers as well as investors. We wanted to see how farmers understood and responded to the models, based on what the entities provided to them. Our purpose was twofold: to help farm seekers better understand these models so they can make informed decisions about whether or not to pursue them; and to enable farm seekers to contribute constructive feedback about the models and lend insight as to whether or not they would work and why, and how they could be improved.

We solicited names farmers to participate in the focus group from members of the VT Farmland Access and Stewardship Working Group of Vermont Farm 2 Plate as well as from other colleagues. The criteria for their selection included:

- either a farm seeker or an established farmer conversant with land tenure challenges;
- willingness to read and evaluate a significant amount of material, offer up questions;
- participation in two in-person focus group sessions; and
- a diversity of farmers and farm enterprises.

We recruited a total of 11 farmers. These farmers came from the dairy, livestock, vegetable and small fruit sectors. Since the investors are focused on “sustainable production”, and in one case, certified organic production, the farmer group was purposefully skewed towards the types of farms in which the investors were likely to invest. Three farmers in the focus group were leasing land and looking toward eventual farm purchases. Two were employed as field managers at one farm, but have an interest in starting their own farm. Three had been in lease situations until purchasing their farm recently with the help of the VT Land Trust. Two were mid-career farmers who already purchased their farms. One mid-career farmer leases a significant amount of additional land, some of which he might wish to purchase. One farmer is at the end of his farming career, and is actively looking to sell his farm. All were familiar with the role of conservation easements in farm affordability, and most were familiar with the VT Land Trust’s Farmland Access Program. Most had familiarity with VEDA, USDA’s Farm Service Agency, and Yankee Farm Credit; several had direct experience working with these farm lenders. Thus, the group had breath of knowledge of the resources used to secure farmland. ([See Farmer Focus Group Participants, Appendix F](#))

C. Advisors

The transactions conducted by farmland investment companies are complex and technical, including legal, financial, land use, and interpersonal aspects. We wanted a range of expertise reviewing the materials. The investor entity representatives knew about and approved our use of technical advisors. Our advisory team was selected based on individual’s expertise (legal, financial, farm management), their willingness to review and comment on materials, and their interest in this project. Several advisors helped us develop the investor questionnaire. All reviewed each company’s background material and sample or actual transaction documents. ([See Authors and Advisors, Appendix G](#))

D. The process

In the fall of 2014, we chose our farmland investor entities based on the above criteria. We sent them an initial invitation with a description of the project. We identified potential farmers and invited them. Then we drafted the investor entity “Request for Information” (questionnaire) which was vetted by a select group of our advisors, revised and sent out with a return deadline.

As the information and responses from the three entities were received, we reviewed and then forwarded them to the focus group farmers electronically and in paper via surface mail. The farmers also received a set of guiding questions to structure their review of the materials and their comments and questions. ([See Request for Information and Additional Questions for All Investor Entities, Appendix B](#))

In January 2015, the project team leaders co-facilitated a 2.5 hour structured focus group session in Vermont. Guided by the list of questions, the farmers discussed each model and the concept of farmland investment in general. They surfaced questions and requests for further information that pertained to all investment companies. ([See Request for Information and Additional Questions for All Investor Entities, Appendix B](#)) In addition, the farmers raised follow-up questions for each specific company. These were carefully vetted and forwarded to the companies’ representatives for their responses which were obtained by phone and recorded.

The second focus group, held in February 2015, consisted of the same farmers plus a representative from each of the participating entities. The follow-up questions from the first session were used to kick-off the discussion. Farmers were encouraged to ask additional questions. The atmosphere was collegial, with all participants displaying a desire for candid dialogue. , Everyone met for two hours, followed by lunch which allowed for further, informal dialogue. Then the company representatives departed. The farmers and project team spent another hour debriefing, where the farmers gave their candid assessments. Both focus groups were recorded and the recordings were referred to in writing the report.

Next, the project advisors reviewed selected materials from the investment companies and provided feedback and commentary. A team of attorneys focused on the legal aspect of the transactions, and advisors with financial expertise focused on the financial aspects. However, since the material overlapped, some advisors commented on both legal and financial aspects. We sent each advisor a packet that consisted of the responses to our RFI, sample leases and a few other related documents. We decided that one entity, Entrepreneur Agrarian Fund, was not sufficiently underway for the advisors to provide substantive review. Advisors' responses are integrated into this report.

We interviewed two farmers who pursued an arrangement with an investment company in our study. Case studies of Kingsbury Market Garden, and Saratoga Draft Power Farm were reviewed and approved by the farmers. The representatives of each company reviewed and provided input into a draft of the report. Several advisors also reviewed portions of the draft report.

APPENDIX B

Request for Information

Thank you for participating in this project and agreeing to provide information about your approach to investing in farm properties in New England. We very much appreciate it.

Our process: Ten selected farmers will review information you send and your responses to questions about your company. They will participate in a focus group to talk about what they learned, and to surface additional questions and requests for clarification that we will pose to you. In January or February, we will bring these farmers together with you and about four other farmland investment representatives to learn from each other, and to see how such approaches may gain traction and success in our region. We will schedule this event around your availability, and cover your expenses.

The project team will prepare a report about what we've learned. You will be invited to review a draft of the report that we will prepare for public audiences. We are assembling a team of professional advisors who will be assisting in financial and legal analyses of each model from the farmers' perspective based on the information you provide. Our advisors include Jon Ramsay, Vermont Land Trust; Karin Chamberlin, Clean Yield Asset Management; Stacy Burnstein, Intervale Center; Nancy Everhart, Vermont Housing and Conservation Board; Jim Oldham, Equity Trust; and two attorneys.

On confidentiality: For this exploration, our highest priority is collegiality. It's important to us that we and the farmers we select to participate can learn as much about you as possible, and that you maximize your own learning as well. We also have a responsibility to share our findings with our funders and the public. There is growing interest in the broader agricultural community in learning more about these models in greater detail, not just conceptually. That said, we respect your right to confidentiality and your proprietary interests. Here is our approach:

- a) If you choose not to provide certain proprietary information, we understand and accept that. Simply leave that section blank, or indicate "no response."
- b) Information you are willing to share **ONLY** with the participating farmers and project advisors will be kept confidential and not shared more widely except in general terms that would not identify your firm. In these cases, please indicate "internal use only" in your response.
- c) We will consider information not tagged as "internal use only" as acceptable for public view.

Thank you.

Kathy Ruhf and Mike Ghia, *Land For Good*

Ben Waterman, *University of Vermont's Land Access Program*

Request for Information

I. Land Acquisition

1. Please provide the literature that you would give farmers, property owners and/or investors on your land acquisition process.
2. Are there any areas of New England that you rule out for your prospective land investments?
3. What is the size average and range of properties you work with?
4. What parcel type do you consider (tillable, pasture, forested land or any)? Is there a minimum or maximum acreage?
5. Are there types of farm enterprises which you favor or enterprises with which you do not become involved?
6. Do you seek properties that are already certified organic? Do you require your investment properties to be or become certified organic?
7. Do you seek or acquire parcels with housing and/or farm infrastructure? If not, under what conditions might you consider buying such parcels? If yes, how are you addressing the housing and infrastructure once acquired?
8. Are you interested in land with substantial acreage in forest or sugar bushes?
9. Are you buying or would you buy land which already has a conservation easement?
10. On properties which do not already have a conservation easement when you acquire them, do you consider or do you consistently place a conservation easement? If not consistently, what circumstances determine when you pursue an easement on a property? When putting conservation easements on a property, how are these funded, including does funding include the use of public funds?
11. Do you place any additional deed restrictions on the property beyond standard conservation easement language?
12. How do you seek out parcels for consideration? Check all that apply:
 - a) The farmer leasing the land brings a proposal to us.
 - b) The property owner brings a proposal to us.
 - c) Real estate listing and other seller advertising
 - d) We advertise our interest in acquiring properties to property owners

- e) Approaching property owners who own parcels which seem meet our criteria even if they are not actively selling
- f) Other; please describe

13. Who becomes the property owner? Check all that may apply.

- a) An individual private investor.
- b) A group of investors. Under what structure?
- c) The investment company or other legal entity associated with the investment company.

14. What is your biggest challenge in acquiring farmland in New England?

II. Farmer Recruitment, Screening and Requirements

1. How do you identify the farmers with whom you work? Please check all that apply:

- a) We work with the farmers already farming the land which we acquire.
- b) We advertise to farmers and will work at finding properties which will meet their needs?
- c) When we secure a property, we issue and advertise a request for proposals (RFP).
- d) We advertise to farmers, keep a contact list and make those on the list aware when we are issuing RFPs.
- e) We work with third parties
- f) Other; please describe

2. If applicable, how and where do you recruit farmers and advertise RFPs?

3. Please describe any minimum criteria you use for screening farmers to prequalify them to work with your firm.

4. Do you supply a template or format for a business, farm or other type of plan to be submitted by the farmer? If so, please attach.

5. Who evaluates the farmers and the farm plans? Staff? Investors? Other?

6. What have been your biggest challenges in farmer identification or recruitment?

III. Lease Terms

1. Please provide a sample of the leases you use with the farmers on property held by your entity. Which lease provisions, if any, are negotiable?

2. After a lease is signed, how often and how much time do you take to meet with the farmer to maintain a good working relationship?

3. How long is the term of the lease? Are there options for renewal or extension?

4. How is the rental rate determined? Please provide an example, including provisions and formulas for increases in the rate over time.
5. How are Infrastructure repair and Improvements addressed? How are ownership and equity in farmer-added infrastructure improvements addressed?
6. Is there a revenue sharing provision or requirement? Based on what formula?
7. Is there a requirement for the land to be certified organic?
8. Are there other environmental stewardship standards required by the lease or in other agreements?
9. How are conflicts between the farmer and investment owner addressed?
10. What aspects of the agreements with farmers have you had the most pushback or concern from farmers?

IV. Buyout or Asset Transfer

1. Do you consistently plan to sell the farms which you acquire, or are there situations where your firm intends to hold properties for the foreseeable future? If there are situations where your firm intends to hold the property without a pre-determined exit plan, please describe the circumstances which may lead to that decision.
2. Are there circumstances where you might sell the farm to non-farmers? Please describe.
3. Are there circumstances where you might sell the property to farmers other than the tenant farmers with whom you have a lease?
4. May the tenant farmers obtain a right of first refusal or an option to purchase? Please describe the terms of such arrangements and provide examples of agreement language you use.
5. Are there other types of opportunities for the farmer to buy out the investors? When and under what circumstances?
6. When and how is the sale price of the property determined?
7. Are lease payments, or a portion thereof, credited towards a potential down payment in the event of the farmer purchasing the land?
8. What happens if the farmer cannot afford to purchase the property at the end of the lease, or in the time period described in the option?

9. What do you observe about farmers' desire to lease versus own?

V. Investors

1. Who are your investors (by type or category)?
2. Do your investors need to be accredited or qualified under federal regulation?
3. How is the investment structured: Limited Partnership, direct title to the properties, shares in an investment fund, equity in a holding company, loan, or other structure?
4. Who becomes the property owner? Please check:
 - a. ____ An individual private investor
 - b. ____ A group of investors. If so, under what structure?
 - c. ____ The investment company or other legal entity associated with the investment company
 - d. ____ Other; please describe.
5. Will the investors' investment be in one singular property or in multiple properties?
6. Please share what you provide to investors to help them better understand the risks and rewards of their investment.

Please provide term sheet and/or PPM that includes minimum investment amount, yield, distributions, term (maturity), and exit options.

VI. Reports

Please provide us with reports and other documents you are willing to share, e.g.,

1. An annual report
2. Other reports
3. Financial Statements

VII. Other

Please feel free to provide us with other information you feel would help farmers understand and appreciate your model. This might include stories, articles, financial analyses, RFP templates, etc.

Also, we would very much appreciate learning from farmers who have successfully partnered with you. If you are willing to let us contact them, please provide contact information, and guidance about approaching them (for example, would you want to let them know in advance?)

Thank you.

Farmland Investor Focus Group #1:

Additional Questions for All Investor Entities

1. Do you feel that your model can work with a start-up farmer with a new business? If yes, in what way(s) is your model appropriate or attractive to new farmers?
2. Would you work with properties less than 50 acres, or are the thresholds you gave in your initial response absolute? Do you feel your model *could* work on small properties?
3. Would you work with a group of farmers on a single property?
4. What is a realistic timeframe for your decision process to work with a farmer?
5. How quickly can you act on a property? What is a realistic timeframe for determining whether you will purchase a farm that a farmer has brought to your attention? What is your realistic timeframe from the time that you determine that you will attempt to buy a property to closing? To commencement of a lease with a farmer?
6. What happens if your company goes out of business or is sold? There do not appear to be clauses in your leases that provide for this. The leases presented are associated with the owner and not the property and do not appear to protect the farmer if the property is transferred. How is the farmer protected in such a circumstance?

Are your leases recorded with the deed(s) at the appropriate government jurisdiction?

If a farmer decides to transfer his/her business to a successor of their choosing (family relation or unrelated) will your company automatically continue with the new owner of the business entity? If not automatic, what would be your process?

7. Please describe in a bit more detail how your approach works for the individual investors. Specifically:
 - a. Do the investors have any contact with the farmers? Is there any facilitated communication between the farmers and investors?
 - b. Do individual investors ever have a say in any of the company's decisions, such as farmer selection, farmland selection, lease and option terms, or liquidation of properties? Can they ever override the decisions of the company staff?
 - c. Do the individual investors have access to the land uninvited at any time?
 - d. What happens if an individual investor want his/her money out of their investment?
 - e. What are your investors ultimately expecting for a return on their money? Over what time period? How is this described to them?
 - f. How do you feel that expectations of investors will change if interest rates and bond yields increase significantly? How will those expectations affect the financial aspects of your model for the farmer? If real estate values begin to pick up in rate of growth, how might that effect your expectations of the farmer at the time of a buyout?
8. How do you figure in improvements to and "building equity in" the soil by the farmer, if at all? In other words, do the investments of labor and capital by the farmer in soil improvements get recognized in your model, such as crediting the farmer for "ecosystem services"? If so, how is this quantified? In general, do you do any monitoring of soil improvement?

9. If the farmer is taking over fields which are depleted to the point that it will significantly affect their business in the early years in terms of added costs and lower yields, how is this recognized by your company as it relates to rent and other farmer expenses? Can you provide specific examples?
10. Would you explain a bit more about how you work with land trusts and easements? Specifically, since your organization is not eligible to receive federal (and typically state) funds for conservation easements, how do you address lands without conservation easements while you are holding them? And how does this affect the economics of your model?
11. Is there a maximum per acre cost that you feel that you can work with? How does the presence or lack of a conservation easement affect this answer?
12. In executing property purchase, lease or transfer via your entity, what are typical costs for the farmer such as closing costs and other legal fees?
13. Regarding farmers' experiences:
 - a. The farmers in our focus group would like to be able to hear directly from the farmers with whom your companies have worked in VT and elsewhere in the Northeast. We are planning to ask some of those farmers to share their experience and feedback. Please let us know if you have any questions or concerns about our outreach.
 - b. In general, if a farmer was interested in potentially working with you, would you make the farmers with whom you have done business available to the prospect to learn firsthand about their experience with your company?

APPENDIX C

Guiding Questions for Farmers

Please use these questions to guide your review of the materials from each investor entity. You do not need to write anything down, although it might help you to take notes. We will refer to these questions in the January 23, 2015 focus group session.

1. What do you find attractive / what are the advantages of each of the models?
 - a. Legal
 - b. Financial
 - c. Social relations
 - d. Time management
 - e. Tenure (security)
2. What are your concerns about each of the models?
 - a. Legal
 - b. Financial
 - c. Social relations
 - d. Time management
 - e. Tenure (security)
3. How likely are you to pursue any of these models and why?
4. What terms are unclear and need further definition?
5. What concepts are ambiguous and need to be clarified?
6. What numbers/figures need to be more explained?
7. What additional information would you like to have about any of the models presented to you?
8. What else would you need (from the investor entity, advisors, other support) to further pursue working with any of these investor entities?
9. From your perspective, what's in it for the farmer in each of these models?
10. What kind(s) of farmers might these approaches be most/least useful for?

APPENDIX D

Case Studies

Kingsbury Market Garden, Vermont

Aaron Locker operates [Kingsbury Market Garden](http://kingsburymarketgarden.com) (kingsburymarketgarden.com), a diversified vegetable and hog operation. He had been renting the same piece of land in central Vermont for five years when he was notified that the non-profit he was renting from needed to sell the property. He was forced to seriously rethink his future. His lease went from a three-year term to year-to-year and did not run with the land. It was not certain whether a future property owner would consider renewing or continuing the arrangement. Aaron only had a few options. He could relocate to a different area, which might lead to a more stable tenure arrangement but would result in a loss of marketing relationships and efficiencies he had built the last five years. He could avoid the hassle of moving and pray that a new owner would renew his lease, but that scenario seemed too tenuous. There was the third option, buy the farm himself.



Aaron Locker, Kingsbury Market Garden

Buying farm seemed to make the most sense only if Aaron could negotiate reasonable terms and secure financing. Aaron knew the non-profit was motivated to sell. He made an offer and the non-profit was very receptive. The two parties ended up signing a purchase and sales agreement that was \$60,000 below the original asking price!

Securing financing was the final hurdle before the deal could be closed. In the midst of exploring financing options, Aaron was invited to participate in a focus group of farmers providing feedback for the Vermont Farm to Plate-sponsored project led by Land For Good investigating innovative farmland investor financing models. Aaron was intrigued.

It was clear after an initial follow up conversation with one of the farmland investment entities that investor financing wasn't going to work. "All it took was one phone call," recalls Aaron. The sticking point in this particular case was the residence on the property resulted in a high annual property tax. Aaron explains, "If the investment entity bought the property, they would pass on 100% of the property tax to me as part of the lease rate. And that was going to be a lot of money!"

Aaron would have paid close to \$7,000 per year to cover property taxes if he were renting as a tenant of the investment entity and covering the property taxes. This is because due to its high income status, the investment entity *would not* be eligible for a property tax adjustment through the Vermont homestead declaration, a program of the Vermont Department of Taxes giving property tax breaks for individuals with low income. On the other hand, if Aaron bought the property himself, his low income status *would* qualify him for the Vermont homestead property tax adjustment, capping Aaron's annual property tax at about \$1,000. Continuing as the investment entity's tenant, Aaron would have likely found some relief in another type of tax break, the Vermont renter's rebate tax credit, but this was not near enough to outweigh the high cost of the annual lease.

The investment entity would have given Aaron the option to purchase the property after five years' time; however, that arrangement meant five years of leasing at a rate that didn't make financial sense for the farm business. Aaron recounts that the investment entity was helpful and honest. The entity agreed, "This is not something that is going to work for you." So ended the chapter of Aaron's exploration with investor financing.

The situation might have been different in other states. Each state has numerous land use programs, tax credits and other circumstances that factor into one's level of property tax liability. Various factors determine whether or not the investment entity or farmer qualifies for these programs, and in turn, how the programs affect a farmer's bottom line. This is important to keep in mind especially in cases where an annual lease rate between an investment entity and a farmer is based in some way on property taxes. When exploring scenarios, farmers can call on the assistance of a tax attorney or tax adviser to investigate details.

Aaron was able to partner with Vermont Agricultural Credit Corporation to finance the property purchase at a relatively low 3.25 % interest rate, and he bought the non-profit's property. Kingsbury Market Garden is now in rapid expansion mode, growing from a herd of 5 brood sows to 15, selling 200 more piglets every year, putting more acreage into vegetable production on neighboring leased land, expanding into medicinal plants and value-added products such as a green chili sausage from pork and peppers grown on the farm. Aaron credits the Vermont Housing and Conservation Board for helping him get his plans in order. "There would have been a million barriers to making my transition, but then I enrolled in Farm Viability," Aaron says. He encourages farm seekers in similar situations to not be afraid to explore investor financing for farm purchase. With all of the models to investigate, Aaron has proven that a path from exploration to sealing a deal is practical and doable.

Saratoga Draft Power Farm, New York

Tim Biello did not grow up on a farm or with a farming background. He started his farming career in 2006, working on and managing farms Central New York, North Country and Hudson Valley, NY. Tim got a lot of experience in vegetable and livestock production as well as dairying and the use of draft horses on several highly diversified farms. Along the way, Tim realized that he wanted to own and operate his own farm someday. Starting in 2011, Tim began planning for his farm business and looking for a farm. Like many new farmers, Tim faced the challenge of trying to find an affordable farm and sufficient capital for land and a new farm business.

Tim started working at [American Farmland Trust](http://farmland.org/staff/timbiello) (farmland.org/staff/timbiello) (AFT) in 2014 as NY Project Manager and Hudson Valley Farmlink Network Coordinator. While there, Tim continued his farm search and planning for his new farm business. In early 2015, he connected with Kevin Egolf, the manager of a new farmland investment company, the [Local Farms Fund](http://localfarmsfund.com) (localfarmsfund.com). The resulting partnership made it possible for Tim and Jamielynn, his wife-to-be, to secure a farm in Ballston Spa, NY under a lease-to-own arrangement.



*Tim and Jamielynn Biello,
Saratoga Draft Power Farm*

The Local Farms Fund (LFF) grew out of [Working Farms Capital's](http://workingfarmscapital.com) (workingfarmscapital.com) experience with its first socially responsible farmland investment company, Iroquois Valley Farms (IVF). IVF was set up specifically to provide secure, affordable farmland tenure to established, mid-sized organic farms. However, IVF saw a substantial, unmet need for farmland access to farmers in the early, start-up period of their business. Together with nine Slow Money NYC investors, Working Farms Capital established LFF to assist early stage farmers in the “NYC foodshed.” LFF’s primary approach is to work with farmers on developing lease-to-own arrangements on properties. Farmers build a relationship with LFF and work with LFF staff to find a farm that meets the farmer’s needs while also meeting LFF’s economic parameters. The Biellos would become the Fund’s first project, less than 5 months after the initial connection was made.

From the beginning of his search, Tim preferred to purchase a farm rather than lease. Working with LFF, the Biellos were able to refine their search to farms they would be able to afford through the LFF model. The Ballston Spa farm was actively on the market with a real estate agent, and was identified by Tim and Jamielynn as a strong prospect soon after they connected with LFF. The farm consists of a farmhouse built in the 1790s, several barns, a mix of forest and wetlands, and most importantly, 30 acres of tillable fields, considered prime soils or soils of statewide importance by USDA. The farm met the criteria they identified as they developed a business plan for a vegetable-based CSA powered by draft horses. The Biellos also planned to include meat and egg production as well as farm education and agritourism.

The Biellos’ quick identification a viable farm, significant farm management experience, and strong business plan enabled a relatively quick purchase of the property after initial contact with LFF. Tim noted that they had secured the property as they were cementing the relationship with LFF, but LFF was ready to work with them as they were searching for land. “In a way,” noted Tim, “they basically prequalified us, which helped us know what our price range was and to know that we had a funding source with which to secure a farm. The fact that I didn’t have land identified for a while was part of what made it harder to work with other investor or access groups [that] wouldn’t or weren’t yet able to work with a farmer who didn’t have farmland identified. This is something that, in my opinion, distinguished LFF – they would prequalify a farmer, which then allows that farmer to more confidently search for the right farm.”

While the mission of LFF is to work with start-up operations, the farmers nonetheless need to demonstrate sufficient background and capabilities as well as a strong financial plan for their farm business for LFF to be comfortable going forward with a new farmer on securing a farm.

Tim had investigated purchasing the farm in a more conventional matter. Since the Biellos had not yet started their own business, they were ineligible for Direct Farm Ownership (FO) loans from USDA’s Farm Service Agency (FSA). USDA requires that “all applicants for direct FO loans must have participated in the business operation of a farm for at least 3 out of the last 10 years.” But the bigger issue was that the purchase price of the farm exceeded the \$300,000 cap on FO loans.

Similarly, it would have been difficult to secure a loan from other lenders such as Farm Credit. Further, the Biellos did not have the 20% down payment typically required by Farm Credit and most other banks. Although the Biellos might have qualified for FSA’s Downpayment Program and/or its Guaranteed Farm Loan Program, securing a loan through these programs would still have been a challenge without another lender partner. Given these obstacles, the Biellos never got to the stage of applying to either FSA or Farm Credit. They also looked into a conventional home mortgage, but even if they had qualified for a first-time homeowner program, the property was more than they could finance.

Going into the project, LFF and the Biellos agreed that the project would be difficult without selling a conservation easement on the farm. Tim had investigated the prospect of selling the easement and the

likely value with a great deal of support from Kevin. He met with Saratoga PLAN, a local land trust, as well as a planner for Saratoga County and several nonprofit groups engaged in farmland protection. While the farm's relatively small size will make it a challenge to compete for limited conservation dollars, the Biellos and LFF are optimistic that an easement can be sold within the first few years of the Biello's lease.

The estimated conservation easement value will bring the farm's value down to a more affordable figure—in line with FSA's FO loan cap—for the Biellos both during the lease period and to purchase. If it had been possible to sell the conservation easement at the time of purchase, not only would it have reduced the farm lease cost, it may have been possible for the Biellos to purchase the farm directly without the assistance of LFF. But this option was not available, and it will likely take at least two years to secure the funding for conservation with the help of local land conservation organizations.

In addition, the Biellos agreed to a "contribution agreement" with LFF. Since the farm cost exceeded the cap that LFF has put on its projects, the Biellos agreed to put up a modest amount to cover the difference between the LFF cap and the purchase price of the farm. This agreement describes how these funds are addressed in subsequent transactions including if the Biellos terminate without purchasing the farm. This arrangement is not expected to be typical in most LFF projects; it demonstrates a creative funding strategy used to meet the needs of both parties.

Initially, Tim worked on his own to negotiate the agreements with LFF. But as the legal documents were being developed for this complex arrangement, the Biellos secured legal counsel from Jerry Cosgrove, an attorney and former NY Director of AFT, paying him with cost-share assistance from the Hudson Valley Agribusiness Development Corporation. Later in the process, Tim also contacted Kathy Ruhf of Land For Good (LFG). LFG was working with UVM Extension on a research project on farmland investment models in the Northeast. Kathy, along with LFG's Vermont Field Agent, Mike Ghia, and Ben Waterman of the UVM Extension Center of Sustainable Agriculture consulted with Tim about the LFF arrangements and other alternatives.

Tim also used Hudson Valley Agri-business Development Corporation cost share funding to work with a business consultant who helped Tim set up spreadsheets and provided other assistance. He also met with SCORE (a network of business mentors) for a few months. The lease for the farm along with the purchase option and the Right of first refusal constitutes 16 pages of legal documents designed to clearly spell out the arrangements and to protect the interests of all parties involved. LFF reports that these documents will be used as the prototype for future agreements with other farms.

The lease on the farm is for a total of 20 years. However, beginning on the 5th anniversary, the Biellos have the option to purchase the farm. The expectation is that the farmers will be able to purchase the farm within 6 to 10 years of the commencement of the lease. During the lease period, the rent will be based on a percentage of the "acquisition costs" which constitutes the purchase price minus what the Biellos paid towards the purchase, but including LFF's closing costs. The percentage starts at 4% and escalates during the course of the lease. Additionally, the Biellos will pay the property taxes, insurance and maintenance on the property during the lease period. The agreement also addresses capital improvements made to the farm and how they will be addressed if the Biellos are unable to purchase the property.

Since the acquisition costs are based on the value prior to the sale of the conservation easement, the initial lease costs are higher than they would be if the farm was already at its agricultural value. The sooner that conservation funding can be secured, the more affordable the lease will become, and both parties are working to make the easement sale happen as soon as possible. Prior to the purchase, LFF provided the Biellos a spreadsheet which shows what the lease costs will be each year taking into account whether or not the easement is sold, and also reflecting the eventual increase in the percentage

applied against the acquisition costs. Tim notes, “This was extremely helpful for me. I appreciated that Kevin and LFF were going above and beyond for me. Kevin’s work on the spreadsheet to help me understand the process as well as to better run my numbers was further proof of his dedication to our project and his commitment to explaining everything and seeing this through.”

The purchase option on the farm is based on an annual growth of 1% on the acquisition costs for LFF. Thus, the portion put up by the Biellos at the outset does not appreciate. The Option also provides for an adjustment based on the sale of the conservation easement, reducing the acquisition cost by the easement value minus transaction costs for the easement sale.

This agreement is complex. It required careful analysis prior to the Biellos making the final commitment to go forward. The lease costs are affordable for the Biellos and initially below the costs of a direct purchase. Further, it’s valuable to the Biellos to incubate their business in a place that they have a reasonable expectation of purchasing in the future. The low rate of appreciation on the farm purchase price makes it likely that the Biellos will be able to purchase the farm below the market value at the time of their purchase. Nonetheless, between the built-in rent increases and the appreciation on the farm, it is in the Biello’s best interest to purchase the farm at their earliest opportunity.

Tim and Jamielynn moved onto their farm in May, 2015. With savings and their business plan, the couple hopes to secure operating capital in the form of loans from FSA or Farm Credit. Doing so will help them to build a relationship and a track record with the lenders—an important step toward securing a real estate loan for the purchase of the farm when the time comes. They are very excited to start building up their farm business and are very appreciative of the assistance that they have received from LFF towards pursuing their goal of securing a farm for the long term.

Tim summed up his experience with LFF. “After nearly 5 years of searching, working with LFF helped me turn the corner from working hard to find a farm to no being on a farm and working hard to make that farm succeed. It’s also now my home, where my wife and I are starting our family and our farm business. Even though much is still uncertain (i.e. will the easement come through? Will the farm succeed?), I’m very grateful to have this opportunity which, without LFF, would not have become a reality. I feel that LFF was an important catalyst for my finding and getting on this farm.”

Morgan Hill Farm, Vermont

Adapted with permission from Dirt Capital Partners

Jerry Conner had long dreamed of taking over “Dad’s farm,” where he and his 11 siblings grew up. His parents brought the family to Addison County, VT in 1962 and built a thriving dairy. “Dad always told me, ‘Jerry, you’re going to get the farm someday.’” But Jerry could not afford to purchase it on his own, especially with the additional expenses to transition his home farm to organic. That’s when he connected with Dirt Capital through Steve Getz, a regional pool coordinator from Organic Valley, Morgan Hill’s milk processor. Getz knew of Jerry’s desire to buy his family’s land and the associated financial hurdles. He also knew of Dirt Capital’s work buying farmland for farmers in the Northeast.



*Jerry and Cheryl Conner
Morgan Hill Farm*

In 2014, Dirt Capital bought Dad's farm. At the closing they signed a revenue-share agreement with Jerry managing the transition while generating revenue from making hay on the acreage and renting out the houses. The agreement puts little financial exposure on Jerry so he can focus on transitioning the farm to organic. At that point, Jerry will have the first option to lease it at standard market rates.

With support from the Vermont Farm and Forest Viability Program (VFFVP), the Connors created a business plan for their initial transition to organic, and turned their home into a Farm Stay—a move that has generated substantial additional income for them, as well as new identities as farm hosts to travelers from around the world. The University of Vermont's Dairy Management Team supported them in implementing their business plan. It can be hard to find the right land for your farm," said VFFVP Program Coordinator Liz Gleason. "And it is great to have other options for leasing and purchasing available to farmers." Without an affordable, productive land base, the transition period from conventional to organic can be stressful and expensive, she added. "The farmer has to learn a new system of managing their farmland and animals, and pay for organic feed for a designated amount of time before getting the higher price for organic milk."

Altogether, Jerry now operates more than 800 acres, all of which are protected by agricultural easements. "We want the farm to stay farmland," said Jerry. But he added, "We can't farm all of our lives. We've got to plan ahead to have somebody take it over." As part of their agreement, Dirt Capital will work with Jerry to identify another organic dairy operation to lease the farm, with the goal of eventually taking over the entire combined operation. Jerry said he would like to find a young family who can live in the farmhouse where he grew up while they work on the ownership transition, so that ultimately, he can retire knowing he passed on "Dad's farm."

The arrangement with Dirt Capital enables Jerry to continue growing the business and ensure its future, even as he plans an exit. A farmer close to retirement might not always find lenders willing to continue to lend, making it more difficult to stay up-to-date and maintain efficiencies. The arrangement also brings flexible options for phased entry by the successor into the business. A young farmer can lease "Dad's farm," first, rather than needing cash on hand to obtain traditional financing to purchase the entire operation outright. This approach increases the pool of eligible young farmers who may have training but not meet the financial requirements for obtaining financing for an operation of this size. As part of the deal, Dirt Capital can invest in improvements to the property to suit the young farmer's needs for newer efficiencies.

APPENDIX E

Northeast Farm Access Profile

Founded in 2012, [Northeast Farm Access LLC](http://nefarmaccess.com) (nefarmaccess.com) (NEFA) is a New Hampshire-based company that works to provide secure farmland tenure by bringing together organic farmers and social investors in New England and elsewhere in the Northeast. NEFA declined to participate in the project but has shared the following information publicly.

NEFA differs from the other farmland investment companies featured in the report in several ways. First, NEFA does not own any farmland. Instead, it facilitates the purchase of individual farms by groups of investors organized as multi-member LLCs. Thus, instead of being invested in securities representing a portfolio of farms, or being a member of an LLC owning multiple farms, or otherwise being part owner in NEFA, investors invest directly in one farm property at a time, not in NEFA. The investors need sufficient information about each project in order to personally assess the viability, risks, and potential returns before investing. Within limitations outlined in each LLC business agreement, being investor members in each LLC gives investors more direct management oversight of each farm property than other farmland investment models, although the individual farmers still manage their businesses independent of the LLC, which owns the real estate. Each project also has a farmer advisory board.

Since the investors are buying shares in an LLC rather than securities, these investments are not subject to SEC regulations, and the investors do not need to be accredited. Each investor needs to make a minimum investment determined by NEFA. NEFA refers to its investors as “sophisticated social investors.” Due to the structure of the investment, most NEFA investors tend to be relatively local to the projects in which they are investing. NEFA seeks project investors who are compatible with the company’s social mission, and publicly displays its [criteria](http://nefarmaccess.com/what-we-do/nefa-social-investment) (nefarmaccess.com/what-we-do/nefa-social-investment) for social investment. To date, investors have been a combination of individuals and private foundations. Thirty-two investors took part in NEFA’s first project; eight are involved in its second project.

Another difference between NEFA and other farmland investor models is that NEFA sets up multiple farmers on a single property. NEFA project teams actively look to purchase farmland with very good soils and the capacity to support a number of small organic farms. NEFA’s first project brought on 3 farmers, and 4 farmers are involved in the second project. See profiles of these [projects here](http://nefarmaccess.com/selected-project-profiles) (nefarmaccess.com/selected-project-profiles). If not initially organic, the land will be transitioned to certified organic status once purchased by one of NEFA’s project LLCs.

NEFA actively recruits farmers to participate in its projects. Further, once a farm property is secured, NEFA will put out a request for proposals and host open houses on a property. Farmers may already have an existing business, or may be new start-up businesses. In their initial project, NEFA also required the farmers to meet the USDA definition of beginning farmer. NEFA may have additional farmer screening criteria.

Each farmer is given a lease on a specific part of the farm with a 30-year renewable term. A lease clause allows the farmer to leave with a 16-month notice. A 6-month rent deposit is required, half of which may be paid in sweat equity. Information on how the rent is determined and adjusted over time was not available for this report, nor was specific information about the arrangements for infrastructure, improvements and housing. In some literature on its initial projects NEFA advertised “market rental rates” and access to “affordable housing.”

Generally farmers are not initially members of the LLC owning the property, but they are given the option to buy shares in the LLC at a later date.

Members of each property LLC receive an annual distribution on their investment which is derived from farm rents. After an initial set period of membership, investors may sell their shares. The structure provides that members are eligible to receive their investment plus a fixed rate of growth per year determined at the outset of the project. Potential buyers of the shares include the tenant farmers.

NEFA's roles include:

- 1) Identifying and evaluating potential farm properties;
- 2) Preparing financial analyses for each potential project to determine feasibility under the NEFA model;
- 3) Identifying and recruiting potential investor for each project;
- 4) Facilitating the development of each LLC;
- 5) Managing the purchase process and the sale of the conservation easement;
- 6) Recruiting and screening the farmers and developing the leases between the farmers and the LLCs; and
- 7) Providing management oversight after everything is in place. NEFA also contracts with Farm Credit to do the accounting on each project.

NEFA's first two projects have been in New York State. NEFA is interested in implementing its approach in New England, and is pursuing opportunities.

APPENDIX F

Farmer Focus Group Participants

1. Brent Beidler, *Beidler Family Farm*
2. Joe Bosson, *Vermont Bean Crafters*
3. Chris Castles and Addie Gardner, *employees at Killdeer Farm*
4. Jon Cohen, *Deep Meadow Farm*
5. Seth Gardner, *McKnight Farm*
6. Nate Lewis, *Moonlight Farm*
7. Aaron Locker, *Kingsbury Market Garden*
8. Hannah and Eric Noel, *Health Hero Farm*
9. John Roberts, *former owner of Butterwick Farm, currently with VT Agency of Agriculture*

APPENDIX G

Authors and Advisors

1. **Eric Becker**, *Clean Yield Asset Management*. Eric is the Chief Investment Officer at Clean Yield Asset Management in Norwich, VT. Eric co-founded Slow Money Boston, Slow Money Vermont, the Vermont Food Investors Network, and Soil4Climate, and was a founding board member of The Carrot Project, a sustainable agriculture finance organization.
2. **Stacy Burnstein**, *Intervale Center*. As Land Access Project Specialist, Stacy works with farmers across Vermont to improve their access to land and secure farm tenure. She brings a background in small scale organic farming and project management across the food chain as well as a longstanding commitment to equitable food systems. She lives in Vermont's Northeast Kingdom with her husband and daughter where they operate a maple syrup business.
3. **Richard Cavanaugh**, *Attorney*. Rich's law firm, Common Grow, combines his legal experience with his desire to support sustainable farming. After several years as Congressional staff and trial law, Rich attended The Farm School in Athol, MA and with his wife, moved to rural Petersham, MA, where he assists farmers and food entrepreneurs and provides pro bono legal services through the CLF Legal Services Food Hub.
4. **Karin Chamberlain**, *Clean Yield Asset Management*. Karin oversees Clean Yield Asset Management's alternative investments focusing on food and agriculture - including organic farmland. Karin has a background in farming, and prior to joining Clean Yield in 2013, spent 15 years in the field of sustainable investing in Boston.
5. **Nancy Everhart**, *Vermont Housing and Conservation Board*. Nancy is the Agricultural Director for the VHCB, a quasi-state agency established to conserve farmland, natural and recreation areas, and historic buildings, and to create perpetually affordable housing. She serves as co-chair of Vermont's Farm to Plate Farmland Access & Stewardship Workgroup. Before joining the VHCB staff in 2001, Nancy owned and operated a small, grass-based, organic, diversified dairy in Marshfield, VT.
6. **Mike Ghia**, *Land For Good*. Mike is the Vermont Field Agent for Land For Good. He is also a consultant with the Vermont Farm Viability Program where he assists farmers with business and transition planning. He co-chairs the VT Farm to Plate Land Access Working Group. Mike co-facilitated the focus groups, and was primary contact with the companies and farmers. Mike was primary author of the report as well as a financial advisor.
7. **James Hafner**, *Land For Good*. Jim is the Executive Director for Land For Good. He has over 20 years' experience in program and fund development, outreach and research in the fields of international agriculture, community development, and public health. He has worked with farmers, NGOs and researchers on land tenure, conservation farming, agro-forestry and watershed management, especially in the Global South. Jim reviewed, commented on and edited the report.
8. **Jon Jaffe**, *Farm Credit East*. Jonathan Jaffe has over 28 years' experience as a loan officer, appraiser, tax specialist, business consultant and educator. Jon was raised on a family dairy farm in New York and operated his own dairy. Jon provides strategic business planning, generation transfer/estate planning, tax consulting, risk management and other consulting services to a wide variety of agricultural clients.

9. **Nicholas Martinelli**, *Attorney*. Nick served as an attorney in Massachusetts state government for nine years, most recently as Deputy Chief Counsel for former Governor Deval Patrick, after which he participated in a year-long farm training program at The Farm School in Orange, MA). He currently operates Marty's Local, an emerging Berkshires-based food hub.
10. **Jim Oldham**, *Equity Trust*. Jim directs Equity Trust, a Massachusetts non-profit that has promoted affordable working farms nationally and managed a revolving loan fund for 25 years. He brings Equity Trust's commitment to social justice and experience with alternative ownership structures, strategies for farmland access, and social investment to the analysis of farmland investment companies.
11. **Jon Ramsay**, *Vermont Land Trust*. Jon is Director of Farmland Access Program at Vermont Land Trust has 17 years of experience in farmland conservation work. He works primarily with new and beginning farmers facilitating affordable farmland access transactions utilizing a wide variety of transaction methods.
12. **Kathy Ruhf**, *Land For Good*. Kathy is the Senior Program Director for Land For Good and manager of this project. As project manager, she co-facilitated the focus groups, edited the report and oversaw project administration. Kathy co-led LFG's previous [investigation of farmland investors](https://landforgood.org/wp-content/uploads/LFG-Farmland-Investors-An-Exploration-Guide.pdf) (landforgood.org/wp-content/uploads/LFG-Farmland-Investors-An-Exploration-Guide.pdf).
13. **Paul Sushchyk**, *Attorney*. Paul has been practicing law since 1981 and is currently with the law offices of Burton F. Berg. His specialties include real estate law. He provides pro bono services through the CLF Legal Services Food Hub.
14. **Benjamin Waterman**, *University of Vermont Extension Center for Sustainable Agriculture*. Ben is in charge of the Center's Beginning Farmer and Land Access Program. He became interested in sustainable agriculture after working as a coffee farmer in Costa Rica, a dairy farmer in Russia and an agricultural extension agent in Malawi for the Peace Corps. Ben helped organize and facilitate the focus groups, develop the questionnaire and edit the report. Ben and his family have a diversified farm in Johnson, Vermont.