

Cumberland.Maine

Rines Forest Conservation Easement

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TOWN OF CUMBERLAND, MAINE GRANT OF PERMANENT CONSERVATION EASEMENT ON THE RINES FOREST, TOWN OF CUMBERLAND, CUMBERLAND COUNTY, MAINE TO THE CUMBERLAND MAINLAND AND ISLANDS TRUST, INC.

THE INHABITANTS OF THE TOWN OF CUMBERLAND, a duly organized Maine municipal corporation, located and operating in Cumberland County, Maine, and having an office at 290 Tuttle Road, Cumberland, Maine 04021 (hereinafter "GRANTOR," which word is intended to include, unless the context clearly indicates otherwise, the above-named GRANTOR, its successors and assigns, and any successors in interest to the Protected Property) **HEREBY GRANTS** in perpetuity as a gift to **CUMBERLAND MAINLAND AND ISLANDS TRUST, INC.**, a charitable and nonprofit corporation organized and existing under the laws of the State of Maine, with a mailing address of P.O. Box 25, Chebeague Island, Maine 04017 (hereinafter "HOLDER," which word shall, unless the context clearly indicates otherwise, include Holders successors and/or assigns), with WARRANTY COVENANTS, in perpetuity and exclusively for low impact recreation and conservation purposes, the following described Conservation Easement and appurtenant rights in, on and over a parcel of land being described in Exhibit A and depicted in the plan entitled _____ (Exhibit B) and referred to herein as the Protected Property.

I. Purpose of the Easement.

The purpose of this Conservation Easement and grant is to preserve and protect in perpetuity the Protected Property. The Cumberland Town Council holds that the Rines Forest property is a unique tract of land that shall remain forever in its undeveloped forested state. To this end, it is the collective responsibility of the community to protect the Forest's natural beauty, wildlife and varied ecosystems. Citizens and friends are encouraged to passively recreate within the property's boundaries while conserving its natural environment consistent with the principles described in Exhibit D.

The following recitals more particularly describe the conservation and other values of the Protected Property:

WHEREAS, the Protected Property provides an ideal site for low-impact outdoor recreation, including, but not limited to, nature study, cross country skiing, snowmobiling on designated trails, horseback riding, pet walking, snowshoeing, fishing, hunting, picnicking, hiking, plant study, and bird-watching by the general public;

WHEREAS, the Protected Property is home to numerous plant and animal species and habitats;

WHEREAS, the Town of Cumberland is experiencing steady, accelerated development that often closes or restricts access to open space traditionally used and enjoyed by the public;

WHEREAS, The Town of Cumberland has established the Rines Forest Committee to develop Rines Forest Stewardship Principles and a management plan and to oversee the management of the Protected Property;

WHEREAS, this conservation easement will ensure the permanent availability of the Protected Property for traditional recreational uses by the general public, permanently preserve its important recreational, scenic and natural resources and habitat for indigenous flora and fauna, and provide permanent pedestrian access to the Protected Parcel;

NOW THEREFORE, GRANTOR and HOLDER have established this Conservation Easement and appurtenant rights on, over, and across the Protected Property consisting of the following terms, covenants, restrictions, and affirmative rights granted to HOLDER, which shall run with and bind the Protected Property in perpetuity:

II. LAND USE RIGHTS AND RESTRICTIONS.

A. The Protected Property shall be used only for conservation and low-impact outdoor recreation and educational activities that do not rely on substantial alteration to the natural resources. Low-impact outdoor recreation includes, but is not limited to, nature study, cross country skiing, snowmobiling on designated trails, snowshoeing, fishing, hunting, picnicking, hiking, horseback riding, pet walking, plant study, and bird-watching by the general public.

B. The Protected Property will be managed consistent with the terms of this Easement under a Management Plan, to include a forest management plan, to be prepared by GRANTOR or its appointees and adopted by Grantor. The Management Plan as originally adopted and as may be subsequently amended from time to time will be submitted to HOLDER for review to ensure that the Management Plan is and remains consistent with the terms of this Easement. GRANTOR will maintain a copy of the Management Plan at the Town of Cumberland Town Office.

C. GRANTOR and HOLDER each reserve the rights and protections against liability for injury to any person to the fullest extent of the law under the Recreational and Harvesting Use Liability Limitations set forth in Title 14 M.R.S.A. § 159-A, et seq. as amended, and successor provisions thereto, pursuant to the Maine Tort Claims Act, Title 14 M.R.S.A. § 8101, et seq., as amended and successor provisions thereto, and pursuant to any and all other applicable provisions of state and federal law.

D. **STRUCTURES:** As of the date of this easement there are no structures on the Protected Property except for boundary markers, stone walls, and public road and utility improvements within the public road right of way at Range Road. No additional structures, temporary or permanent, are permitted on the Protected Property without the prior written consent of

Holder, except however, the Grantor reserves for itself, its successors and assigns, the following rights:

1. Grantor reserves the right to locate minor structures within the Protected Property that enhance the opportunity for low-impact outdoor recreation. Such minor structures may include, but are not necessarily limited to the following:

- a. small unlighted informational and interpretive signs including commemorative plaques and monuments,*
- b. informational kiosks,*
- c. trail markers,*
- d. trail improvements such as steps, trail bridges, culverts and water bars.*
- e. barriers, low fences and rock walls to protect fragile areas, important natural resources, ongoing environmental or archeological research or to block or discourage access by motorized vehicles.*
- f. structures such as fencing for protection of rare or endangered species or to assist with vegetation management or fire protection.*
- g. temporary structures associated with wildlife, plants, archeological or other scientific study under professional supervision under professionally accepted standards.*

2. Grantor reserves the right to install and maintain, only at or near the allowed parking areas and roadway access permitted in Paragraph E3. of this Section, necessary and appropriate parking and access structures and facilities for public use of the Protected Property-consistent with this easement. Such accessory structures and facilities may include, but shall not be limited to, fencing, parking barriers, gates, unlighted signs, registration boxes, informational kiosks, pet sanitation devices and-any structures necessary for erosion control or protection of fragile resources.

E. SURFACE ALTERATIONS:

1. Mining and quarrying activities are prohibited on the Protected Property.

2. No excavation, filling, dredging, or grading or other alteration may be made to the surface of the Protected Property except as necessary to install permitted structures, to support permitted vegetation management or forestry activities, to prevent erosion, to undertake and support ecological or archeological studies under professional supervision and in accordance with generally accepted professional standards, to install and maintain the Parking Area as authorized under part 3, below, or as necessary to establish and maintain rustic pedestrian trails. All such surface alterations shall be designed to prevent soil erosion, prevent unnecessary habitat alteration, and preserve the undeveloped scenic views of the Protected Property.

3. Grantor may construct, maintain and control a parking area to park vehicles of visitors to the Protected Property. The parking area shall be limited in capacity to serve no more than 10 passenger vehicles. The parking area may be gravel surfaced but shall not be paved with asphalt or other impervious materials and shall be constructed to not cause unreasonable drainage onto the Protected Property or nearby environmentally sensitive areas or water bodies. In siting the location of the parking area, Grantor shall minimize the removal of large trees. The location of the parking area shall be immediately adjacent to Range Road to minimize the need for service or access roads. The parking area shall be buffered from the Protected Property and Range Road with trees and shrubs.

4. A number of improved and unimproved trails currently exists within the Protected Property, as is depicted on a map attached hereto as Exhibit C. Consistent with the Management Plan to be adopted by Grantor pursuant to paragraph II(B) herein, and in consultation with Holder and the Rines Forest Committee, Grantor may improve existing trails and may develop additional trails to create an interconnected network of trails within the Property.

The network of trails shall be constructed and maintained in a manner consistent with the goals and purposes set forth in paragraph II(A) herein. The Management Plan may include or refer to trail development standards recommended by appropriate state or federal agencies or by private organizations dedicated to conservation or natural resource protection purposes.

F. TREE CUTTING

Except for trail maintenance and parking area construction, any cutting of trees should be done under the guidance of a forest management plan developed by a professional forester with input from a professional wildlife biologist and adopted by the Grantor. The forest management plan must include provisions for protecting soils, water quality and high value plant and animal habitat. Grantor shall provide Holder with a courtesy copy of any forest management plan for Holders review and comment.

G. DUMPING OR STORAGE OF MATERIALS OR VEHICLES.

No dumping, storage or burial of refuse, soils, salt, sand or gravel or any waste materials is permitted on the Protected Property. No vehicles may be stored on the property except that temporary storage of vehicles as may be required for permitted conservation or forest management activities on the protected Property shall be permitted.

III. HOLDER'S AFFIRMATIVE RIGHTS.

A. HOLDER is granted the right to enter the Protected Property at any time for the purposes of monitoring the conditions and terms of this Conservation Easement, to undertake ecological or other studies of the Protected Property, and to exercise any other affirmative right hereunder.

B. HOLDER is granted the right to enforce this Conservation Easement at law or in equity, including the right to require restoration in the event of a breach, provided, however, that naturally occurring changes or changes due to trespass or vandalism by individual members of the public shall not give rise to any right in the HOLDER to require restoration.

C. HOLDER is authorized to install small, unlighted informational signs that identify Holder's contributions to and interests in the Protected Property, which mark the boundary of the Protected Property, which enhance public use of and appreciation of the Protected Property, and which promote appreciation of plant or animal life; such minor signage to be completed in a manner consistent with the goals of this Easement and the Management Plan.

D. In the event that **CUMBERLAND MAINLAND AND ISLANDS TRUST, INC.** should dissolve or is not able to fulfill its obligations under this Conservation Easement, it will assign the easement to another qualified entity (not the Town of Cumberland) chosen by the GRANTOR within three months of notice of an intent to assign. A qualified entity for such purposes shall be one that meets the definition of a "HOLDER," at Title 33 Maine Revised Statutes Annotated Section 476(2), as amended or re-codified, and that meets the requirements of Section 170(h)(3) of the Internal Revenue Code, or successor provisions thereof, and that as a condition of transfer, agrees to carry out the conservation purposes of this grant.

IV. GENERAL TERMS AND PROVISIONS.

A. Any ambiguity in the interpretation of these easements and restrictions shall be resolved in favor of preserving the Protected Property in its undeveloped forested state. This grant shall be interpreted to permit compliance with applicable state, local, or federal law or regulation, and may be amended if and to the extent necessary to permit compliance therewith.

B. Any notice to HOLDER required or contemplated hereunder must be delivered in hand or by other reasonable means providing a record of receipt, addressed to: President, Cumberland Mainland and Islands Trust, P. O. Box 25, Chebeague Island, Maine 04017; or to such other authorized person hereafter designated in writing by HOLDER. Any notice to GRANTOR required or contemplated hereunder must be delivered in hand, or by other reasonable means providing a record of receipt, addressed to: Cumberland Town Manager, Town of Cumberland, 290 Tuttle Road Cumberland, Maine, 04021.

C. This Conservation Easement is created pursuant to The Uniform Conservation Easement Act at Title 33, Maine Revised Statutes Annotated, Sections 476 through 479-B, inclusive, as amended, and shall be construed in accordance with the laws of the State of Maine.

D. At the **(DATE TO BE DETERMINED)**

Town Council Meeting, the Town of Cumberland, Maine

Town Council approved granting HOLDER this Conservation Easement on the Protected Property and agreed to be bound to the terms herein, and further, authorized the Town Manager,

William Shane, to execute this instrument on behalf of the Town of Cumberland.

TO HAVE AND TO HOLD the said Conservation Easement unto the HOLDER and its successors and assigns forever.

IN WITNESS WHEREOF, the Town of

Cumberland has caused its corporate seal to be hereto affixed and these presents to be signed by

William Shane, its Town Manager in its name and on its behalf this ____ day of _____, 2005.

THE TOWN OF CUMBERLAND

Witness

William R. Shane, Town Manager

Town of

Cumberland

STATE OF MAINE**COUNTY OF CUMBERLAND, ss**_____, **2005**

Personally appeared the above named, William R. Shane as the duly authorized representative of the above-named **INHABITANTS OF THE TOWN OF CUMBERLAND, MAINE, GRANTOR**, and acknowledged the foregoing instrument to be his free act and deed in his capacity as Town Manager for the **INHABITANTS OF THE TOWN OF CUMBERLAND, MAINE** and the free act and deed of the municipality.

Before me,

Notary Public

(Please type or print name of notary)

My commission expires:

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HOLDERS ACCEPTANCE

Being duly authorized, the **CUMBERLAND MAINLAND AND ISLANDS TRUST, INC., HOLDER**, does hereby accept this Conservation Easement, by and through Robert Crawford, its President, hereunto duly authorized, this _____ day of _____, 2005.

**Cumberland Mainland and
Islands Trust, Inc.**

Witness
Robert Crawford, President

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, **2005**

Personally appeared Robert Crawford, president and authorized representative of the **CUMBERLAND MAINLAND AND ISLANDS TRUST, INC.**, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the **CUMBERLAND MAINLAND AND ISLANDS TRUST, INC.**, a
Maine non-profit corporation.

Before me,

Notary Public

notary)

(Please type or print name of

My commission expires:

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EXHIBIT A

The Protected Property

EXHIBIT A

A certain lot or parcel of land with any improvements thereon, located on the northeasterly side of Range Road in the Town of Cumberland,

County of

Cumberland, State of

Maine and more particularly described as follows:

Beginning at a set granite monument on the northeasterly side of Range Road at the westerly corner of land retained by Dale S. Rines, said point of beginning located N52°54'21"W 112.45 and N43°41'20"W 193.80 along Range Road and the remains of a stone wall from a found 5/8 inch drill hole in the corner of a stone wall, at the land now or formerly of Eric F. Saunders and Janet P. Judge as described in Deed Book 12252, Page 304 recorded in the Cumberland County Registry of Deeds;

Thence N 43°41'20" W, along remains of a stone wall and Range Road, a distance of 85.14' to a point;

Thence N 38°00'35" W, along remains of a stone wall and Range Road, a distance of 248.45' to a point;

Thence N 39°35'04" W, along remains of a stone wall and Range Road, a distance of 61.17' to a point;

Thence N 39°22'02" W, along remains of a stone wall and Range Road, a distance of 58.33 to a point;

Thence N 40°13'29" W, along remains of a stone wall and Range Road, a distance of 105.35' to the end of the stone wall;

Thence N 36°21'32" W, along remains of wire fence and Range Road, a distance of 560.59' to a point;

Thence N 40°32'25" W, along remains of stone wall and wire fence, a distance of 176.96' to a set granite monument at the land retained by Dale S. Rines;

Thence N 53°12'39" E, along land retained by Dale S. Rines, a distance of 1046.54' to a set granite monument;

Thence N 02°34'55" W, along land retained by Dale S. Rines, a distance of 777.89' to a set granite monument;

Thence N 37°00'00" W, along land retained by Dale S. Rines, a distance of 999.88' to a found drill hole in a 8 by 16 Stone 24 above grade at the corner of a stone wall at the land now or formerly of Andrew R. Berube as described in Book 18060, Page 237;

Thence N 37°10'30" W, along remains of stone wall, wire fence, land of Berube, land now or formerly of Deborah Shaw Rice and

Jennifer West as described in Book 6434, Page 59, a distance of 1606.48' to set 3/8 drill hole in stone wall at land now or formerly Robert B. Waterhouse and Megan H. Waterhouse as described in Book 4717, Page 239;

Thence N 49°04'27" E, along remains stone wall and

land of

Waterhouse, a distance of 52.64' to a point;

Thence N 53°40'59" E, along remains stone wall and

land of

Waterhouse, a distance of 241.64' to a point;

Thence N 50°42'45" E, along remains stone wall and

land of

Waterhouse, a distance of 161.50' to a point;

Thence N 53°32'36" E, along remains stone wall and

land of

Waterhouse, a distance of 248.99' to a point;

Thence N 52°01'14" E, along remains of wire fence and land of Waterhouse, a distance of 861.50' to set 3/8 drill hole in a four foot diameter rock at the land now or formerly of David R. Higgins, Jr. and Marilyn Higgins as described in Book 7084, Page 91;

Thence S 37°58'09" E, along remains of wire fence and land now or formerly of Fred T. Kinney as described in Book 10621, Page 64, a distance of 297.44' to a stone wall;

Thence S 36°24'21" E, along remains of stone wall and

land of

Kinney, a distance of 239.07' to end of stone wall;

Thence S 39°10'14" E, along remains of wire fence, a distance of 277.56' to a point;

Thence S 35°01'15" E, along remains of a wire fence and land of Kinney, a distance of 255.93' to a found 5/8 inch iron rebar at the land now or formerly of Victor C. Otley, III and Elizabeth S. Otley as described in Book 13396, Page 79;

Thence S 36°39'23" E, along remains of wire fence and

land of

Otley, a distance of 415.66' to a point;

Thence S 37°20'34" E, along remains of wire fence and

land of

Otley, a distance of 517.89' to a point;

Thence S 39°22'58" E, along remains of wire fence and

land of

Otley, a distance of 311.67' to a point;

Thence S 37°19'06" E, along remains of wire fence, land of Otley and land now or formerly of David B. Moody and C. Elizabeth Moody as described in Book 1781, Page 323, a distance of 278.84' to a point;

Thence S 34°31'32" E, along remains of wire fence, remains of stone wall, land of Moody, and land now or formerly of David B. Moody, Jr. as described in Book 10517, Page 284, a distance of 266.99' to a found 5/8 inch iron rebar at land now or formerly of Roger Milliken, Jr. and Margot A. Wallach as described in Book 6833, Page 323;

Thence S 35°58'41" E, along remains of wire fence and land of Milliken, a distance of 873.68' to a found 1-3/4 inch iron pipe at land now or formerly of Medley A. Watson and Ruth H. Watson as described in Book 3850, Page 131;

Thence S 56°29'37" W, along remains of wire fence and

land of

Watson, a distance of 119.35' to a found 1 galvanized iron pipe;

Thence S 13°36'23" E, along remains of wire fence and

land of

Watson, a distance of 399.23' to a found 1 galvanized iron pipe;

Thence S 29°01'23" E, along remains of wire fence and

land of

Watson, a distance of 290.98' to a set 5/8 iron rebar;

Thence S 20°17'37" W, along remains of wire fence and

land of

Watson, a distance of 179.92' to a found 1 galvanized iron pipe;

Thence S 76°06'23" E, along remains of wire fence and land of Watson, a distance of 59.57' to the west side of Saw Mill Brook and land of Watson;

Thence southerly along the westerly side of Saw Mill Brook a distance of 530 feet, more or less, a tie line from the beginning of Saw Mill Brook to this point is S 08°52'22" W a distance of 515.52' to a point on the westerly side of Saw Mill Brook at the land of Watson;

Thence S 53°38'41" W, along remains of wire fence, land of Watson and along land now or formerly of said Saunders and Judge, a distance of 1354.23' to a set granite monument at the land retained by Rines;

Thence N 36°21'19" W, along land retained by Rines, a distance of 300.00' to a set granite monument;

Thence S 53°38'41" W, along land retained by Rines, a distance of 856.77' to the point of beginning.

Containing an area of 216.15 Acres, more or less.

Together with a right of way as mentioned in a deed to Clinton F. Rines from Congress Square Hotel Company dated May 14, 1926 and recorded in the Cumberland County Registry of Deeds in Book 1232, Page 464 and depicted on the plan recorded in Plan Book 70, Page 34.

Meaning and intending to describe a portion of the premises as described in a deed to Dale S. Rines from Bernard P. Rines dated September 27, 1976 and recorded in said Registry in Book

3914, Page 96.

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EXHIBIT B

The survey plan entitled &&&&&&&&.. Professional Land Surveyor and to be filed of record at even or near date hereof.

EXHIBIT C

Rines Trail Map

EXHIBIT D

Rines Forest Stewardship Principles

1. The

Town Council endorses the maintenance of the

Forest to assure its present undeveloped forested state and will, within limits established by any Town Council, provide the human and fiscal resources necessary to do so.

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