

## LAND USE AGREEMENT

THIS LAND USE AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_ day of June, 2017, by and between Town of Windham, Maine, with a mailing address of 8 School Road, Windham, Maine 04062 (the "Town") and Little Sebago Lake Association, a Maine non-profit corporation, with a mailing address of c/o Pam Wilkinson, President, P.O. Box 912, Windham, Maine 04062 (the "Association"). For the purposes of this Agreement, the "Association" shall include its officers, directors, employees, agents, and representatives.

### WITNESSETH:

WHEREAS, the Town is the owner of record of the real property commonly referred to as "Florence Manchester Park," located at 13 Vacation Lane, Windham, Maine 04062, located on Tax Map 64 Lot 10 and as more particularly described on Exhibit A hereto (the "Park");

WHEREAS, the Association desires to use the Park to store its milfoil control boats, milfoil control boat trailers, and related equipment (the "Permitted Uses"); and

WHEREAS, the Town desires to grant, and the Association desires to obtain, non-exclusive rights as an invitee of the Town for use of the Park;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties agree as follows:

1. The Town hereby grants the Association the non-exclusive right to enter upon, use and enjoy the Park for the Permitted Uses, and for no other purposes, for a period beginning on the date hereof and continuing for a period of one (1) year (the "Initial Term"), such right to be exercised and enjoyed in common with the Town and any other invitee of the Town. The Initial Term shall automatically renew for subsequent terms of one (1) year each (each, a "Renewal Term") (the Initial Term together with each Renewal Term, the "Term") unless either party provides the other party with sixty (60) days' notice of non-renewal prior to the end of the then current term. Either party may terminate this Agreement upon sixty (60) days' notice to the other party. Upon the expiration or earlier termination of this Agreement, the Association's rights as an invitee under this Agreement shall immediately cease.

2. In consideration of the rights granted herein, the Association agrees to pay any and all costs and expenses, including but not limited to maintenance expenses, associated with the Park.

3. The Association hereby acknowledges on behalf of itself and its invitees, that the Park is natural undeveloped forest and is located adjacent to an inland body of water. The Association agrees, on behalf of itself and its invitees, that it will enter upon the Park at its own risk, assumes the risk and accepts the Park in its then existing condition, with all faults and dangers, whether patent or latent. The Association further acknowledges, on behalf of itself and its invitees, that the Town in no way warrants the condition of the Park, nor any portion thereof, nor assumes any responsibility or liability whatsoever to any person, including without limitation to the Association and its invitees, for any injury, including death, or property damage, or theft of personal property, caused by, related to or arising out of the Association's use of the Park or exercise of the rights granted hereby.

4. The Association shall save, defend, indemnify and hold the Town harmless from, for and against any and all claims, damages, losses, suits, liabilities, fines, regulatory proceedings, fees and expenses of litigation (including reasonable attorneys' fees) or costs or any demands: (a) caused by, related to or arising out of the use of the Park by the Association or exercise of the rights granted hereby to the Association or its invitees, including without limitation claims of any person for injury, including death, or property damage; or (b) any breach of this Agreement by the Association or its invitees. The foregoing indemnification shall: (a) survive the expiration or termination of this Agreement; (b) include any claims involving negligence alleged on the part of the Town; and (c) shall be unaffected by any employer's immunity available to the Association under any workers' compensation act, which immunity is hereby expressly waived.

5. The Association shall, at its own expense, maintain and carry in full force and effect throughout the Term of this Agreement: (a) commercial general liability insurance sufficient to cover the Association's obligations under this Agreement, including bodily injury and property damage, which policy will include contractual liability coverage; (b) workers' compensation insurance with limits no less than the minimum amount required by applicable law; and (c) personal property insurance for physical damage and theft sufficient to cover the Association's equipment stored at the Park. Such insurance policies shall provide that such the Town shall be given at least 30 days' prior written notice of cancellation or non-renewal of policy coverage and that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of the Town shall be excess and non-contributory. The Town shall be named as an additional insured on such insurance policies. The Association hereby waives any right of subrogation of the insurers against the Town. Prior to or simultaneously with the execution of this Agreement, the Association shall have provided the Town with certificates of insurance evidencing the insurance coverage required by this Section in amounts and form satisfactory to the Town in its sole and absolute discretion.

6. The Association shall have no right to transfer, assign, sublease, sublicense, grant rights to sub-invitees, or otherwise encumber this Agreement.

7. This Agreement may be executed in counterpart originals.

8. This Agreement shall be governed by the laws of the State of Maine.

9. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous agreements or understandings, whether oral or written.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Agreement as of the date first written above.

TOWN OF WINDHAM, MAINE

By: \_\_\_\_\_  
Name: Anthony Plante  
Title: Town Manager

LITTLE SEBAGO LAKE ASSOCIATION

By: Pam Wilkinson  
Name: Pam Wilkinson  
Title: President