

## MEMORANDUM OF UNDERSTANDING AND AGREEMENT

This Memorandum of Understanding and Agreement (öMOUö) is made this \_\_\_\_ day of August by and between the Town of Windham, a body corporate and politic of the State of Maine (öTownö) and Jamar, Inc., a Maine corporation (öJamarö).

Town and Jamar jointly acknowledge the following:

- A. Jamar owns property in the Town adjacent to or near State Route 302, including property more particularly described in a deed to Jamar recorded in the Cumberland County Registry of Deeds at Book 28567, Page 297 (the öJamar Propertyö).
- B. A portion of the Jamar Property (the öEasement Propertyö) is subject to the provisions of Conservation & Recreation Easement from Jamar to Town recorded in said Registry at Book 28710, Page 168 (the öConservation Easementö).
- C. Jamar is considering the construction of improvements on all or a portion of the Jamar Property that is not subject to the Conservation Easement (the öImprovementsö). Jamar acknowledges that nothing in this MOU waives any approvals required in connection with the Improvements.
- D. The portion of the Town in which the Jamar Property is located does not presently have any form of public wastewater disposal.
- E. Jamar will need to design and construct a wastewater disposal system to serve the Improvements (the öWastewater Systemö).
- F. As a matter of engineering and construction it may be possible to design the Wastewater System so that with additional modifications it would be capable of serving a load greatly in excess of the load anticipated to be generated by the Improvements (the öRevised Systemö).
- G. The Town and Jamar desire to explore a Revised System that would provide for a Wastewater System, which when fully completed, would be sufficient to serve a number of users in the vicinity of the Jamar Property.

In connection with such exploration, the Town and Jamar have reached certain initial agreements as set forth below.

1. Initial Feasibility/Exploratory Work and Costs. The Town shall retain and be solely responsible for the fees for Wright-Pierce (the öConsultantö) to provide advice regarding feasibility issues relating to the Revised System. To the extent the Consultant's advice regarding feasibility issues requires any testing or studies, such as hydro-geological, that should be conducted (öRecommended Testsö), the parties shall share equally in the fees of consultant and of any Recommended Tests that they agree to have performed. The Consultant shall be requested to provide the parties with a written report regarding the feasibility of one or more Revised Systems (öFeasibility Reportö). The parties acknowledge that they have previously incurred costs relating the Revised System. If the Revised System is built, Jamar shall be eligible to be

reimbursed for its proportional share of the cost of the Recommended Tests based on the wastewater design flow from its constructed or planned Improvements under a Development Agreement pursuant to paragraph 3 of this MOU.

2. Initial Design Work/Cost Estimate. If the results of the Feasibility Report are acceptable to the Town and Jamar in their respective sole discretion, the parties shall attempt to agree on retention of an engineering company or other qualified person (öInitial Designerö) to provide plans and other related information for such Revised Systems as the parties desire to pursue further (öInitial Plansö). The Initial Designer shall be requested to determine an estimate cost of construction for each selected Revised System. The parties shall share the cost of the Initial Designer equally.

3. Formal Agreement. If the Initial Plans for one or more Revised Systems are Town and Jamar acceptable to the Town and Jamar in their respective sole discretion, the parties shall attempt to agree as to the terms of, and to enter into, a formal agreement (the öDevelopment Agreementö) relating to final design, construction, operation and ownership of the Revised System. It is presently contemplated that the Development Agreement will address, among other matters: (a) the manner of determining which Revised System shall be selected for final design; (b) the manner of dividing the cost of final design of the Revised System; (c) the need for any revisions to the Conservation Easement; (d) the conditions under which and manner in and extent to which Jamar will be reimbursed any of the costs of constructing and installing the Revised System (öConstruction Costsö); (e) creation of a tax increment financing district to pay Construction Costs; (f) the ability of the Town to acquire the treatment/disposal portion of the Revised System and the creation of a sanitary district or other entity to assume ultimate ownership of the Revised System; and (g) the manner in which operating costs of the Revised System will be determined and assessed.

IN WITNESS WHEREOF, the Town and Jamar have executed this Memorandum of Understanding and Agreement as of the date first above written.

Town of Windham

Jamar, Inc.

By: \_\_\_\_\_

By: \_\_\_\_\_