

TRAIL, ACCESS, AND PARKING EASEMENTS

33 M.R.S.A. § 1581 et seq.

KNOW ALL PERSONS BY THESE PRESENTS, that the **TOWN OF WINDHAM**, a duly organized Maine municipal corporation, located and operating in Cumberland County, Maine and having an office at 8 School Road, Windham ME 04062 (“Grantor”) grants to **PRESUMPSCOT REGIONAL LAND TRUST**, a Maine nonprofit corporation with a principal place of business in Gorham, Maine, and having a mailing address of P.O. Box 33, Gorham, Maine 04038 (“Holder”), with **QUITCLAIM COVENANT**, Trail, Access, and Parking Easements in and across the land in the Town of Windham, County of Cumberland and State of Maine, with a scope and on such terms as are described on **Exhibit A** attached hereto, and in the locations described herein.

The Town of Windham has caused its acknowledgement and seal to be hereto affixed and these presents to be signed by _____, its Town Manager in its name and on its behalf this ____ day of _____, 2021.

TOWN OF WINDHAM

By:
Its: Town Manager

STATE OF MAINE

COUNTY OF CUMBERLAND, ss

_____, 2021

Personally appeared before me the above named, _____, Town Manager of the **TOWN OF WINDHAM**, and acknowledged the foregoing instrument to be their free act and deed in their said capacity and the free act and deed of the **TOWN OF WINDHAM**.

Notary Public/Attorney at Law
Print Name:
My commission expires/Maine Bar No.:

HOLDER ACCEPTANCE

The above and foregoing *Trail, Access, and Parking Easements* were authorized to be accepted by the Presumpscot Regional Land Trust, the Holder as aforesaid, and the said Holder does hereby accept the foregoing *Trail, Access, and Parking Easements*, by and through Rachelle Curran Apse, its Executive Director, hereunto duly authorized, this ____ day of _____, 2021.

PRESUMPCOT REGIONAL LAND TRUST

By: Rachelle Curran Apse
Its: Executive Director

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2021

Then personally appeared the above named Rachelle Curran Apse, Executive Director of Presumpscot Regional Land Trust and acknowledged the foregoing instrument to be her free act and deed in her said capacity, and the free act and deed of said corporation.

Before me,

Notary Public
Printed Name:
My Commission Expires:

EXHIBIT A

1. BURDENED PROPERTY

The servient property that is the subject of the within described *Trail, Access and Parking Easements* are portions of that certain property situated on Falmouth Road in the Town of Windham, County of Cumberland and State of Maine being [a portion of the Grantor's property] described in a deed to Grantor from Virginia H. Lowell dated December 1, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10453, Page 190 (the "Grantor's Property").

A. LOCATION OF TRAIL EASEMENT.

The easement herein conveyed is a public access trail easement as defined in 33 M.R.S.A. § 1581 and is for the purposes stated herein (the "Trail Easement") on and over that certain portion of a the Grantor's Property. The portion of land burdened by the Trail Easement is that portion labeled as "Trail Easement Area," on the sketch plan depicted on **Exhibit B** attached hereto.

B. SCOPE AND PURPOSE OF THE TRAIL EASEMENT

The purpose of the Trail Easement is to provide access to the adjacent Lowell Preserve, and to the multi-use recreational trail systems thereon, as well as on any contiguous conservation lands with connecting recreational trail systems, such access to be for Holder's land management purposes and to provide recreational trail access to the general public. The access may be for pedestrians, equestrians, snowmobile or all terrain vehicle access, provided that the nature and mode of the access shall be subject to regulations as set forth in a certain Management Plan to be entered into by Grantor and Holder in their capacities as Grantor and Holder of a certain Conservation Easement on the Lowell Preserve to be executed of near or even date and to be recorded herewith (hereinafter "Management Plan").

The purpose is also specifically to provide an easement area within which Holder may construct, manage, maintain, repair and relocate recreational trails, including trailhead amenities, for access by the general public, subject to the terms hereof. Such trails shall be for recreational use by the general public, subject to regulation as set forth in the Management Plan. Camping and fires of any kind are prohibited.

Notwithstanding that the purpose of this trail easement is to provide public access, Holder and Grantor may, subject to the Management Plan, establish reasonable rules from time to time governing the use of the Trail Easement Area, or temporarily restrict public access thereto, in order to protect ecologically fragile areas or for safety purposes.

The Trail Easement includes the non-exclusive right of Holder, subject to the Management Plan, to install and maintain certain trail amenities within the Trail Easement Area related to public recreational use thereof, including without limitation the following or their equivalent (collectively, the "Amenities"): unlighted informational and interpretive signs including management, safety and regulatory signage; commemorative plaques and memorials; informational kiosks and registration boxes; low barriers to discourage unauthorized access; fencing to protect natural resources or for safety

purposes; support and erosion control structures necessary for permitted trails and maintenance access routes, trail and boundary markers; rustic trail improvements, including, hand rails, steps, primitive bridges to cross streams or wet areas, culverts and water bars; benches and picnic tables; temporary tents (solely for daytime use by the Holder from time to time, such as for an event, and not for personal, overnight or camping purposes); pet sanitation boxes; and temporary structures associated with wildlife, plant, archeological or other scientific study.

The Trail Easement also includes the non-exclusive right to construct, maintain, repair and replace an informational kiosk and registration box and a trail no wider than five (5) feet providing access to and from the Grantor's parking lot and the Trail Easement Area (any trail and Amenities located within the Trail Easement Area are hereinafter referred to collectively as the "Trailhead"). The Trailhead to be maintained and subject to regulation as set forth in the Management Plan.

2. LOCATION AND SCOPE OF ACCESS & PARKING EASEMENT

In connection with the use of the Trail Easement Area, Grantor also grants to Holder a non-exclusive right and easement for vehicular and pedestrian access over the driving lanes, parking lot and sidewalks on the Grantor's Property and a right to use parking spaces in said parking lot (the "Designated Parking") for temporary, daytime use by the public while using the trails and by Holder while engaging in land management on the Grantor's Property or on the Lowell Preserve (the "Access & Parking Easement"). Holder may install and maintain a sign visible from Falmouth Road directing the public to and from the street and the Designated Parking and/or the Trailhead. Grantor reserves the right to tow any vehicles parked overnight or in areas other than the Designated Parking, and, subject to the Management Plan, to establish and enforce other reasonable rules and regulations regarding the use of the Grantor's parking lot. Any relocation or reconfiguration of the parking lot is subject to the Management Plan.

3. LIMITED LIABILITY

The Trail Easement, the Access Easement and the Parking Easement collectively are for the use by the public for "recreational activities" as defined in 14 M.R.S. §159-A. Grantor and Holder each claim all of the rights and protections against liability for injury to the public to the fullest extent of the law under the recreational and harvesting use liability limitations set forth in 14 M.R.S. §159-A as amended and successor provisions thereof, and under any and all other applicable provisions of law or equity.

4. TRAILS MAINTENANCE AGREEMENT; TRAILHEAD PLAN

The parties' respective rights and responsibilities to manage and maintain the parking, trails, the Trailhead and all Amenities established on the Grantor's Property shall be governed by the terms of the Management Plan.

5. GENERAL PROVISIONS

A. The rights and easements granted herein are non-exclusive easements in gross to Holder, a nonprofit corporation qualified to hold a Trail Easement pursuant to 33 M.R.S. § 1581 et seq.

(the "Trail Easement Statute"). Holder may not assign or transfer any of its rights hereunder without the Grantor's prior written consent and without an amendment being recorded in the Registry of Deeds evidencing such assignment. Any successor entity must satisfy the requirements of the Trail Easement Statute (or successor provisions thereof).

B. Reserving to the Grantor the use and enjoyment of all of the Grantor's Property for all purposes as are not inconsistent with and shall not interfere with the use thereof by the Holder for the purposes described herein. Nothing herein shall permit the Holder to remove, relocate, alter, or in any way change any existing items, fixtures or improvements located on the Grantor's Property on the date hereof without the Grantor's prior written consent, including without limitation any fences, drainage facilities, and paths or gravel drives.

E. This Trail Easement shall be governed by and construed in accordance with the laws of the State of Maine. If any portion of this Trail Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Trail Easement and the application of such provision to any other person or circumstance shall remain valid.

EXHIBIT B
TRAIL EASEMENT LOCATION

A certain easement on a parcel of land situated on Falmouth Road in the Town of Windham, County of Cumberland and State of Maine, and bounded and described as follows:

[INSERT HERE A SKETCH PLAN SHOWING APPROXIMATELY WHERE THE TRAILHEAD IS LOCATED, WHERE TRAILS CROSS THIS PARCEL, AND WHERE THE PARKING LOT IS LOCATED?]

Meaning and intending to burden a portion only of the property conveyed by deed to Grantor from Virginia H. Lowell dated December 1, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10453, Page 190.