**PUBLIC ACCESS EASEMENT**

**GREAT POND PRESERVE II**

**CAPE ELIZABETH LAND TRUST, INC.**

**CAPE ELIZABETH LAND TRUST, INC**., a Maine non-profit corporation with a mailing address of 330 Ocean House Road, Cape Elizabeth, Maine 04107 (“**Grantor**”) for consideration paid, including a contribution in the amount of Seventy-Five Thousand Dollars ($75,000.00) to assist Grantor in the acquisition of the premises described in **Exhibit A (“Premises”)** grants to the **TOWN OF CAPE ELIZABETH**, a body corporate and politic, with a mailing address of 320 Ocean House Road, PO Box 6260, Cape Elizabeth, Maine 04107 (**Grantee**”), with quitclaim covenant, a perpetual easement on and over the Premises, for the purpose of providing access thereto by the general public for non-motorized low impact, outdoor recreation, without fee.

Grantee consents to the Grantor creating a separate Declaration of Covenants and Restrictions upon the Premises in the form attached hereto as **Exhibit B (“Declaration”)**. Further, Grantee acknowledges that the right of public access granted herein shall be subject to reasonable restrictions for the protection of the Premises as are more particularly described in Exhibit B, provided that the exercise of such rights by Grantor shall not unreasonably limit the public access rights granted herein.

The Parties agree that each shall be considered a steward of the Premises. Stewardship shall extend to trail location, design standards, construction and maintenance, legal defense, management planning and implementation, restrictions on use and general monitoring of the Premises. In the exercise of their joint stewardship responsibilities, the parties shall endeavor to resolve any differences in good faith negotiations. The parties acknowledge that Grantor’s obligation is to conserve the natural features and habitat of the Premises, and that the grant of public access under this Easement, must be balanced to meet Grantor’s conservation goals. The Grantor and Grantee agree that public access will always be protected on the Premises.

The Parties shall jointly identify and develop projects with regard to the Premises that pertain to public access, and that such matters as the decisions: 1) to create, locate or relocate trails, 2) to implement design standards for trail construction including boardwalks and bridges, 3) to adopt use restrictions as would have a material impact on public access, and 4) to transfer or grant real estate interests in some or all of the Premises to third parties, shall be made jointly by the parties, provided that other than customary maintenance costs, Grantor shall not be required to make any financial contribution for any project which it has not approved. In the event that a decision cannot be reached by the Grantor and the Grantee, the Grantor, in its capacity as landowner and as a 501(c)(3) non-profit corporation, retains the final authority to approve any such project.

Grantor agrees it shall be responsible for construction, financing, and completion of all projects agreed to by the parties.

Grantor reserves the right to protect the conservation values of the Premises and to balance protection of its natural resources with low-impact outdoor recreational access by the general public, such that Grantor, after notice to Grantee, shall have the right to limit public access to the extent reasonably necessary for the safety, erosion control and protection and preservation of important natural resources that may require protection. Grantor and Grantee agree to meet periodically, but not less than once annually, to review implementation of the above condition.

Grantor and Grantee claim the rights and protections against liability for injury to the public to the fullest extent of the law under 14 M.R.S.A. §159-A et. seq., as amended and any successive provisions thereof (the “Maine Recreational Use Statute”), the *Maine Tort Claims Act,* and under any other applicable provisions of law and equity.

This agreement shall not be deemed to create any partnership or relationship of agency between the parties or joint venture under any circumstances or respect.

IN WITNESS WHEREOF, Grantor, Cape Elizabeth Land Trust, Inc., has caused this instrument to be signed and sealed in its corporate name by Anne Carney, its President, thereunto duly authorized, this \_\_\_\_\_ day of August, 2016.

WITNESS: CAPE ELIZABETH LAND TRUST, INC

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: Anne Carney

Its President

STATE OF MAINE

CUMBERLAND, SS. August \_\_, 2016

Personally appeared before me the above named Anne Carney, in her capacity as President and duly authorized representative of Cape Elizabeth Land Trust, Inc., and acknowledged the foregoing instrument to be her free act and deed in said capacity and the free act and deed of said corporation.

Before me,

Notary Public/Maine Attorney at Law

Printed Name

My commission expires:

S:\K\KLT\TGL\CAPE ELIZABETH\GREAT POND II\PUBLIC ACCESS EASEMENT 07-08-2016 clean.docx