

**CONSERVATION EASEMENT ON BUNGANUC ROAD LAND  
IN BRUNSWICK, CUMBERLAND COUNTY, MAINE,  
TO THE TOWN OF BRUNSWICK AND  
TO BRUNSWICK-TOPSHAM LAND TRUST, INC.**

**Brooks W. Stoddard, holder of a life tenancy on the Protected Property, and Michael D. Stoddard and Blake S. Stoddard as owners of the underlying fee interest in the Property**, as defined below, with a mailing address of 171 Bunganuc Road, Brunswick, Maine, 04011 (hereinafter referred to as the "Grantor," which word shall, unless the context clearly indicates otherwise, include the above named Grantors, their successors and assigns, and any successors in interest to the Protected Property),

GRANTS as a gift to **The Town of Brunswick**, organized and existing under the laws of the State of Maine, with a mailing address of 28 Federal Street, Brunswick, ME 04011, and **Brunswick-Topsham Land Trust, Inc.**, a nonprofit corporation organized and existing under the laws of the State of Maine, with a mailing address of 108 Maine Street, Brunswick, ME 04011 (collectively hereinafter referred to as the "Holder," which word shall, unless the context clearly indicates otherwise, include the Holder's successors and assigns),

with **QUITCLAIM COVENANTS**, in perpetuity, the following described Conservation Easement pursuant to the Maine Uniform Conservation Easement Act at 33 M.R.S.A. Section 476 et seq., and Section 170(h) of the Internal Revenue Code, on property located on Bunganuc Road in Brunswick, Cumberland County, Maine, more particularly described in **Exhibit A** attached hereto and made a part hereof (hereinafter referred to as the "Protected Property");

A portion of the fair market value of this Conservation Easement has been used as match by the Town of Brunswick for Federal financial assistance award NA06NOS4190272 through the Coastal and Estuarine Land Conservation Program of the National Oceanic and Atmospheric Administration (hereinafter referred to as "NOAA"). The Protected Property must be managed for conservation purposes consistent with the terms of this Easement and may not be converted to other uses. The Easement Holder may not extinguish, sell, exchange, or reassign this Easement or modify the terms thereof without the approval of NOAA or its successor agencies.

**PURPOSE**

*This Conservation Easement is intended to protect the natural, scenic and undeveloped character of the Protected Property, and to promote the conservation of its fields, woodlands, and marshland, their associated wildlife habitat values, and the water quality of Maquoit Bay.*

The following recitals more particularly describe the conservation values of the Protected Property and the significance of this Conservation Easement:

WHEREAS, the Protected Property is a scenic parcel of undeveloped land, totaling approximately 43 acres of which approximately 10 acres consists of fields, 33 acres consists of woodlands, and the remainder consists of salt marsh along approximately 1,500 feet of the northerly shore of the Maquoit Bay; and,

WHEREAS, the Protected Property consists of highly valuable coastal and estuarine habitat, as well as woodland, field, and freshwater habitat areas;

WHEREAS, the Protected Property preserves the land's capacity to continue sequestering carbon in its above-ground biomass and soils by avoiding potential future conversion of the land to development or tilled agriculture;

WHEREAS, the Protected Property, in its existing substantially natural and undeveloped state, provides wildlife habitat and open space in an area experiencing rapid growth of residential development, and is immediately adjacent to land being purchased by the Town of Brunswick for Conservation Purposes; and

WHEREAS, these features provide significant public benefit and the parties hereto wish to preserve this unique character.

NOW THEREFORE, the Grantor and Holder have established this Conservation Easement (the "Easement") on, under, 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:

## **SECTION I: RESTRICTIONS AND RESERVED RIGHTS.**

**1. GENERAL RESTRICTIONS:** The Protected Property remains in a substantially undisturbed and natural condition. To describe the present condition of the Protected Property so as to be able to monitor properly future uses of the Protected Property and assure compliance with the terms hereof, Holder has prepared an inventory of the Protected Property's relevant features and conditions (the "Baseline Documentation") and Holder and Grantor have certified the same as an accurate representation of the condition of the Protected Property as known to them as of the date of this Conservation Easement. The Protected Property shall be maintained by Grantor, its successors and assigns, for the benefit of the general public as open space. Commercial, industrial, and/or residential development and uses are prohibited. Without limiting the generality of the foregoing, the Protected Property is subject to the following specific prohibitions:

**A.** Residential, commercial, industrial, quarrying or mining activities are prohibited on the Protected Property, except as specifically permitted herein. However, the incidental sale of interpretive literature, use of the Protected Property for charitable fundraising, educational activities, community events, and tours, the harvesting of shellfish and other marine life, and/or the incidental sale of materials removed in the course of Grantor's permitted land management activities under Sections 3 and 4, are permitted activities and shall not be deemed commercial uses.

B. The division, subdivision, partition or other establishment of separate lots on the Protected Property is prohibited, except to remedy bona-fide boundary disputes and provided that the Protected Property in its entirety may be conveyed subject to this Conservation Easement, or any portion of the Protected Property may be conveyed to a non-profit entity or division of government that meets the requirements for an assignee of this Easement, as set forth in the "Holder's Affirmative Rights" herein below, to be retained for conservation ownership subject to the terms of this Conservation Easement.

C. The disposal or burial of waste materials of any nature is strictly prohibited on the Protected Property; provided that vegetative debris from permitted activities may be left on the Protected Property; and other waste generated by permitted activities may be temporarily stored in appropriate containment for removal at reasonable intervals.

**2. STRUCTURES:** One existing tent platform is located at the southern end of the Protected Property within the zone shown as 'Tent Platform Area' on the survey plan titled, "Survey of Conveyances and Conservation Easements, Land of Susan V. Lowery & Margaret R. Downing (Record Owners), Bunganuc Road, Brunswick, Maine," dated December 15, 2006, made for the Town of Brunswick by Brian Smith Surveying, Inc., which plan is to be recorded in the Cumberland County Registry of Deeds on substantially even date herewith (the "Survey Plan"). This tent platform is a wooden structure elevated approximately two feet off of the ground surface that accommodates one or two tents for recreational camping purposes. One existing stone grave marker and one bench are located within the family cemetery plot shown on the Survey Plan as the "Proposed Cemetery". As of the date of this Conservation Easement, there are no other structures on the Protected Property. No additional structures are permitted except that the Grantor reserves, for itself, its successors and assigns, the following:

A. The right to maintain the existing tent platform and to install no more than three additional structures to enhance the opportunity for non intensive recreational use, such as benches, wildlife observation structures or tent platforms, provided that each such structure does not exceed 100 square feet in size and is designed and located to blend with the natural surroundings.

B. The right to maintain the existing structures within the Proposed Cemetery and to install additional grave markers within the Proposed Cemetery.

C. All of the foregoing permitted activities related to structures must be conducted and completed in a manner to minimize soil erosion and damage to plant communities, wetlands, water bodies and/or wildlife habitat.

**3. SURFACE ALTERATIONS:** Two unpaved woods roads with associated drainage ditches and culverts wind through the Protected Property from north to south, one leading to the Tent Platform Area (the "Woods Road") and the other (the "Trail") leading to the "Proposed Cemetery", all as more specifically identified on the Survey Plan. As of the date of this Conservation Easement, there are no other surface alterations on the Protected Property. No additional surface alterations are permitted except that the Grantor reserves, for itself, its successors and assigns, the following:

A. The right to maintain existing surface alterations and to alter the surface to the extent necessary to install the structures permitted in Section 2, and to undertake the vegetation management permitted in Section 4 and in Paragraph B of this Section.

B. The right to maintain, restore, or enhance wildlife habitat of the Protected Property within the existing salt marsh areas in a manner approved by state and federal fisheries and wildlife agencies.

C. The right to maintain the Proposed Cemetery in a manner consistent with state and federal regulations governing human burials. This reservation shall include the right to inter additional human remains within the Proposed Cemetery. Grantor also reserves the right to maintain widen, or, with Holder's consent, which shall not be unreasonably withheld, relocate the existing unpaved Trail (as identified on the Survey Plan) leading from Bunganuc Road to the Proposed Cemetery, as necessary to allow for the ingress and egress of motorized equipment typically employed in funeral services and/or the burial of human remains. Grantor shall have the right to drive or direct said motorized equipment on the Trail, as needed, to and from the Proposed Cemetery, for the purposes of digging graves, conducting funeral services, and for delivering human remains to the Proposed Cemetery for interment. Only Stoddard family members may be interred in the Proposed Cemetery Plot.

D. The right to establish and maintain additional unpaved footpaths and recreational trails, provided that they are located and designed in a manner to prevent soil erosion and damage to fragile natural communities and wildlife habitat, consistent with the Purposes of this Easement, and provided that Grantor receives the Holder's approval, which shall not be unreasonably withheld.

E. All of the foregoing permitted surface alteration activities must be conducted and completed in a manner to minimize soil erosion and damage to plant communities, wetlands, water bodies and wildlife habitat.

**4. VEGETATION MANAGEMENT:** No vegetation may be cut, disturbed, altered or removed from the Protected Property, except that Grantor reserves, for itself and its successors and assigns, the following rights and accepts the following obligation:

A. The right to alter or remove vegetation as necessary to install, establish and maintain the structures permitted under Section 2 and the surface alterations permitted under Section 3.

B. The right to cut, prune, alter, remove and otherwise manage forest vegetation, and to mow the existing open fields on the Protected Property to maintain the open character of the fields; to reduce safety hazards for the uses permitted hereunder; to improve or enhance wildlife habitat; to combat active fire and prevent fire, disease or non-native invasive species; and for sustainably harvested cord wood for non-commercial, personal use by Grantor.

C. All of the foregoing vegetation management must be conducted and completed in a manner to minimize soil erosion and damage to plant communities, wetlands, water bodies and wildlife habitat and to ensure that the primary objectives for protecting this property – to conserve its scenic and wildlife habitat values and to preserve the water quality of Maquoit Bay - will continue to be met.

**5. PUBLIC USE AND ACCESS:** Nothing contained herein should be construed as affording the general public physical access to any portion of the Protected Property. However, nothing in this Easement should be construed to preclude Grantor's right to permit non-commercial, Low-impact Recreation on the Protected Property by the general public or private groups or individuals, at Grantor's sole discretion, provided that such use does not conflict with the Purposes of this Easement. Such uses shall include, but not be limited to, the right to permit the construction of an unpaved pedestrian footpath along the shoreline of Maquoit Bay, if the construction of such a footpath would provide a connection to other trails on adjacent properties that could not otherwise be connected, or enhance the opportunity for low-impact pedestrian use, nature observation and environmental study on the Protected Property.

The specific alignment of said footpath, as well as the time and manner of entry and construction of said footpath, shall be mutually agreed-upon between Grantor and Holder. Any request by Holder to construct said footpath must be approved in writing by Grantor. Any such footpath shall be established and maintained at Holder's expense and in a manner agreeable to Grantor.

Grantor and Holder claim the rights and protections against liability for injury to the public to the fullest extent of the law under Title 14 M.R.S.A. Section 159-A, et seq. as amended and successor provision thereof (The Maine Recreational Use Statute), the Maine Tort Claims Act, and under any other applicable provision of law and equity.

## **SECTION II: AFFIRMATIVE RIGHTS GRANTED.**

1. Holder, its successors and assigns, is hereby granted (a) the right to enter the Protected Property for monitoring and enforcement purposes at reasonable times and in a reasonable manner, (b) the right to enforce the terms of this Conservation Easement by actions at law or in equity, including the right to require restoration of the Protected Property to its condition prior to any violation hereof, and (c) the right to install markers to identify the Conservation Easement boundary.

2. Holder is granted the right to have its role in protecting the Protected Property by this Conservation Easement and other contributions acknowledged in any signage that identifies Grantor as owner of the Protected Property.

## **SECTION III: MISCELLANEOUS**

1. Holder, by acceptance of this Conservation Easement, does not undertake any liability or obligation relating to the condition of the Property, its control, maintenance or upkeep

nor any responsibility for payment of taxes or any other charges attributable to the Protected Property.

2. This Conservation Easement shall be interpreted liberally under the laws of the State of Maine to carry out its conservation purposes. Any discretionary consent by Holder, permitted under this Conservation Easement for uses that are conditional or not expressly reserved by Grantor, and any legally permissible amendment hereto, may be granted only if the Holder has determined in its reasonable discretion that the proposed use furthers or is not inconsistent with the purposes of this Conservation Easement, substantially conforms to the intent of this Conservation Easement, meets any applicable conditions expressly stated herein, and does not materially increase the adverse impact of expressly permitted actions under this Conservation Easement, provided that Holder has no right or power to consent to any use that would result in a substantial adverse impact to important habitat on the Protected Property, or that would limit the term or terminate this Conservation Easement, or that would impair the qualification of this Conservation Easement or the status of the Holder under any applicable laws, including Title 33 M.R.S.A. Section 476 et seq., or Section 170(h) of the Internal Revenue Code (or successor provisions).

3. Any notices or requests for approval required or contemplated hereunder shall be made by certified mail, return receipt requested, addressed to the Town of Brunswick, with a mailing address of 28 Federal Street, Brunswick, ME 04011, and the Brunswick Topsham Land Trust, Inc., with a mailing address of 108 Maine Street, Brunswick, ME 04011; or to such other person or address designated in writing by Holder. Grantor's notices must include sufficient information to enable Holder to determine whether Grantor's plans are consistent with the terms of this Conservation Easement and the conservation purposes hereof. Any notices to Grantor required or contemplated hereunder shall be made by certified mail, return receipt requested or by any commercial carrier that requires a signed receipt, addressed to Brooks W. Stoddard, with a mailing address of 171 Bunganuc Road, Brunswick, Maine 04011 and Michael D. Stoddard and Blake S. Stoddard with a mailing address of 101 Brentwood St., Portland, Maine 04103, or to such other person or address designated in writing by Grantor.

The Town of Brunswick and the Brunswick-Topsham Land Trust, Inc., will notify each other in writing prior to undertaking any inspection of the Protected Property and/or prior to undertaking any enforcement action pursuant to this Conservation Easement.

**[SIGNATURES ON FOLLOWING PAGES]**

LIFE TENANT

By:

Brooks Stoddard

STATE OF MAINE  
COUNTY OF CUMBERLAND, SS

On this 20<sup>th</sup> day of September, 2007, personally appeared the above-named Brooks Stoddard, known to me or satisfactorily proven to be the person described in the Conservation Easement and acknowledged that he executed this document as his free act and deed and is competent to do so.

Barbara Tuttle  
Attorney at Law/Notary Public

My Commission Expires: 5/18/2013

(seal)

Barbara D. Tuttle  
Notary Public, Maine  
My Commission Expires May 18, 2013

SEAL

IN WITNESS WHEREOF, we have hereunto set our hands this 20 day of  
September, 2007.

**FEE OWNER**

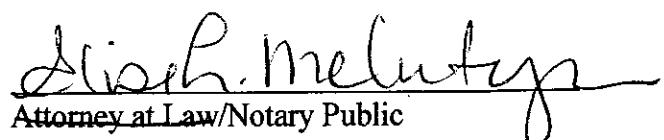
By:



Michael Stoddard

STATE OF MAINE  
COUNTY OF CUMBERLAND, SS

On this 20<sup>th</sup> day of September, 2007, personally appeared the above-named Michael Stoddard, known to me or satisfactorily proven to be the person described in the Conservation Easement and acknowledged that he executed this document as his free act and deed and is competent to do so.



Attorney at Law/Notary Public

My Commission Expires: \_\_\_\_\_

(seal)

ELISE L. MCINTYRE  
Notary Public, Maine  
My Commission Expires August 17, 2014



**FEE OWNER**

By:

Blake Stoddard

STATE OF Ohio

COUNTY OF Wood, SS

On this 20 day of September, 2007, personally appeared the above-named Blake Stoddard, known to me or satisfactorily proven to be the person described in the Conservation Easement and acknowledged that he executed this document as his free act and deed and is competent to do so.

Wendy P. Botje  
Attorney at Law/Notary Public

My Commission Expires: Nov. 2009

(seal)

SEAL

**TOWN OF BRUNSWICK**

By: *Donald H. Gerrish*  
Name: *Donald H. GERRISH*  
Title: *Town Manager*  
Duly Authorized

STATE OF MAINE  
COUNTY OF CUMBERLAND, SS

On this 21<sup>st</sup> day of September, 2007, personally appeared  
Donald H. Gerrish, Town Manager of the Town of  
Brunswick, known to me or satisfactorily proven to be the person described in the Conservation  
Easement, and acknowledged that he/she was duly authorized to execute this Conservation  
Easement.

*PK Scully*  
Attorney at Law/Notary Public  
*PATRICK J SCULLY*  
My Commission Expires: \_\_\_\_\_

(seal)

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROTECTED PROPERTY**

All that certain parcel of land situated southerly of Bunganuc Road, in the Town of Brunswick, County of Cumberland and State of Maine, bounded and described as follows:

COMMENCING at a rebar set on the assumed southerly sideline of Bunganuc Road at a point which marks the northeasterly corner of those premises conveyed to First Vermont Bank and Trust Company, Trustee by deed dated March 31, 1989 and recorded in the Cumberland County Registry of Deeds in Book 8718, Page 68;

THENCE S 04°48' 51" E, a distance of 1548.96 feet to a rebar set and the True Point of Beginning of the easement herein described, said rebar bears S 68°38' 34" W, a distance of approximately 150 feet from the centerline of a stream;

THENCE S 68°38' 34" W, a distance of 927.19 feet to a rebar set at or near to the westerly sideline of land now or formerly of said Trust Company;

THENCE in a general southerly direction along the westerly sideline of land now or formerly of said Trust Company to the high water line of Maquoit Bay;

THENCE in a general easterly direction along the high water line of said Maquoit Bay to the easterly sideline of land now or formerly of said Trust Company located at the center of the stream (said stream is shown on said plan as "Believed to be Stallion Creek");

THENCE in a general northerly direction along the easterly sideline of land now or formerly of said Trust Company and the west line of land now or formerly of Lowery and Downing along the thread of a stream to a point which bears N 68°38' 34" E, a distance of approximately 150 feet from the True Point of Beginning of the parcel herein described;

THENCE S 68°38' 34" W, a distance of approximately 150 feet to the True Point of Beginning of the parcel herein described.

Meaning and intending to describe approximately 43 acres of land, be it the same, more or less, being a portion of those premises conveyed from TD Banknorth, National Association to Blake Stoddard and Michael Stoddard, subject to a life estate granted to Brooks W. Stoddard by deed dated December 13, 2005 and recorded in the Cumberland County Registry of Deeds in Book 23500, Page 289.

Meaning and intending to describe the parcel entitled "Proposed Easement 43 Acres +/-" on said plan titled "Survey of Conveyances and Conservation Easements, Land of Susan V. Lowery & Margaret R. Downing (Record Owners), Bunganuc Road, Brunswick, Maine," dated December 15, 2006, made for the Town of Brunswick by Brian Smith Surveying, Inc., which plan is to be recorded in the Cumberland County Registry of Deeds on substantially even date herewith.

All rebars set are 5/8 inch (or 1/2 inch if set in ledge or stone) and are capped and marked B. Smith – Smith #1175. Bearings used in this description are based on observed magnetic north 2004.

Received  
Recorded Register of Deeds  
Sep 21, 2007 12:11:24P  
Cumberland County  
Pamela E. Lovley