

AMENDMENT TO CONSERVATION
EASEMENT

This Amendment to Conservation Easement is made as of this ____ day of _____, 2019 by and between TIDEWATER LLC, a Delaware limited liability company with a principal place of business in Portland, Maine (“Grantor”) and the TOWN OF FALMOUTH a Maine municipal corporation whose mailing address is 271 Falmouth Rd., Falmouth, ME 04105 (“Town”), and amends the Conservation Easement, dated October 15, 2005, by and between Grantor and Town, recorded at the Cumberland County Registry of Deeds in Book 23279, Page 235 (the “Conservation Easement”). Capitalized terms used and not defined herein have the meanings ascribed to them in the Conservation Easement.

WHEREAS, Grantor has obtained an updated survey of the Protected Property and areas adjacent thereto entitled “Tidewater Farm Open Space Parcel Land Transfer” dated December 19, 2018 by Stantec and on file with the Town, a reduced copy of which is attached hereto as Exhibit A-1; and

WHEREAS, Grantor and Town wish to define the Protected Property by reference to such new survey; and

WHEREAS, Grantor intends to sell the fee interest in the Protected Property to Town, which in turn intends to sell the fee interest in the Protected Property to the Falmouth Conservation Trust d/b/a Falmouth Land Trust, a Maine non-profit corporation with a mailing address of PO Box 6172, Falmouth, Maine 04105 (the “Land Trust”) (the Land Trust is not a party hereunder); and

WHEREAS, in connection with the sale transactions of the Protected Property, Grantor, Town and the Land Trust wish to clarify additional provisions of the Conservation Easement.

Now therefore, in consideration of the mutual benefits contained herein, Grantor and Town hereby agree that the Conservation Easement is amended as follows:

1. The first three sentences of Section 5 of the Conservation Easement are hereby deleted and replaced with the following:

Structures. As of the date of this grant there are no structures on the Protected Property, although the Historic Finks Farm Buildings are located adjacent to the Protected Property. Nothing herein shall be deemed to preclude access to the site of the Historic Finks Farm Buildings or any other portion of the areas labeled “TF2” and “TF3”

on Exhibit A-1 by established, improved and approved roadways, including, without limitation, Presumpscot Point Road, as it may be improved (to include widening and paving), and both Grantor and Town recognize and agree that the Grantor and/or its successors, assigns, tenants and invitees may make passive use of the Protected Property anticipated herein for the support and enhancement of the activities conducted at the site of the Historic Finks Farm Buildings and the areas labeled “TF2” and “TF3” on Exhibit A-1. For clarity, it is understood by both Grantor and Town that the restrictions contained in this Conservation Easement do not burden the site of the Historic Finks Farm Buildings, or any other portion of the areas labeled “TF2” and “TF3” on Exhibit A-1 attached hereto.

2. Exhibit A to the Conservation Easement is hereby deleted and replaced in its entirety by the following:

“A certain lot or parcel of land, located northwesterly of Clearwater Drive and southwesterly of Lunt Road, in the Town of Falmouth, Cumberland County, Maine and being generally identified as “TF1” on a plan entitled “Tidewater Farm Open Space Parcel Land Transfer” dated December 19, 2018 by Stantec, attached hereto as Exhibit A-1, and being a portion of the premises shown on the plan entitled “Tidewater Farm, Falmouth, Maine Final Subdivision Plan” by DeLuca-Hoffman Associates, Inc., recorded in the Cumberland County Registry of Deeds in Book 205, Page 638, and reserving for the benefit of the areas labeled “TF2” and “TF3” on Exhibit A-1 a right of way for ingress and egress over the roads, including without limitation Presumpscot Point Road, shown on the “Tidewater Farm, Falmouth, Maine, Second Amended Final Subdivision Plan” dated November 2013, last dated April 20, 2014, made for Tidewater LLC by Fay, Spofford & Thorndike, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 214, Page 422.

Together with a right of way for ingress and egress over the roads shown on the above-referenced plans.”

3. Exhibit A-1 attached to this Amendment is hereby added as Exhibit A-1 to the Conservation Easement.

4. The Conservation Easement is unchanged in all other respects and remains in full force and effect.

In witness whereof the parties hereto have caused this Amendment to Conservation Easement to be signed and sealed, in any number of counterpart copies, each of which counterpart copies shall be deemed an original for all purposes, by the undersigned, duly authorized on the dates set forth below.

WITNESS:

TIDEWATER, LLC
By Bateman Partners, LLC
Its Managing Member

By: _____
Nathan H. Bateman
Its Member

State of Maine
County of Cumberland

December __, 2018

Personally appeared before me the above named Nathan Bateman, in his capacity as Member of Bateman Partners, LLC, Managing Member of Tidewater, LLC, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of Tidewater, LLC.

Notary Public/Attorney at Law
Print Name _____
My Commission Expires _____

WITNESS:

TOWN OF FALMOUTH

By: _____

Nathan Poore

Its duly-authorized Town Manager

State of Maine
County of Cumberland

December __, 2018

Personally appeared before me the above named Nathan Poore, in his capacity as Town Manager of the Town of Falmouth, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of the Town of Falmouth.

Notary Public/Attorney at Law

Print Name_____

My Commission Expires_____