

CONSERVATION EASEMENT

KINGSTON IMPROVEMENT ASSOCIATION, hereinafter called the “Grantor”, which word is intended to include, unless the context clearly indicates otherwise, its successors in interest to the Protected Property, a nonprofit corporation incorporated under the laws of the State of Rhode Island as a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code, with a mailing address of PO Box 141, Kingston RI 02881,

GRANTS AS A GIFT, for no monetary consideration, to the **SOUTH KINGSTOWN LAND TRUST**, a nonprofit corporation incorporated under the laws of the State of Rhode Island (as a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code qualified under section 170(h) of the Internal Revenue Code to receive qualified conservation contributions whose purpose is to preserve natural areas for scientific, charitable, educational and aesthetic purposes) with a mailing address of 17 Matunuck Beach Road, South Kingstown, RI 02879, hereinafter called the “Grantee”, which word shall, unless the context clearly indicates otherwise, include the Grantee’s successors and/or assigns,

with WARRANTY COVENANTS, in perpetuity, this Conservation Easement, upon a certain lot of real property, known as Potter Memorial Wood, located between South Road and Biscuit City Road in South Kingstown, Rhode Island, which property is identified as Assessor’s Plat 31-3 Lot 44 by the Town of South Kingstown, consisting of 63 acres, more or less, and is more particularly described in **Exhibit A** attached hereto and made a part hereof by reference, hereinafter referred to as the "Protected Property".

RECITALS

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

WHEREAS, Parcel 2 of the Protected Property, as set forth in Exhibit A, hereinafter referred to as “Passive Recreation Area” is a significant natural area which qualifies as a "...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder; specifically, the Protected Property is habitat for birds, mammals and other species that utilize mixed oak and conifer forest, and wetlands areas;

WHEREAS, Parcel 1 of the Protected Property, as set forth in Exhibit A, hereinafter referred to as “Active Recreation Area”, provides land for outdoor recreation by, or the education of, the general public, specifically nature trails, and a defined area of active recreation for baseball, basketball, ice skating, and other appropriate uses; and

WHEREAS, preservation of the Protected Property is for the enjoyment by the general public and will yield a significant public benefit, specifically as it provides nature trails, areas for active recreation and natural forested landscape along South Road; and

WHEREAS, preservation of the Protected Property is pursuant to federal, state and local governmental conservation policy and will yield a significant public benefit, specifically outdoor recreational opportunities for the public, and the preservation of a large neighborhood park in a densely developed residential area; and

WHEREAS, the Protected Property possesses open, scenic, recreational, historical, educational and natural/ecological values (also generally referred to as the “conservation values” of the Protected Property); and

WHEREAS, the specific conservation values of the Protected Property are documented in a Baseline Documentation Report, prepared by Grantee and signed and acknowledged by the Grantor in **Exhibit B**, establishing the baseline condition of the Protected Property at the time of this grant and including maps, photographs, and other documentation; and

WHEREAS, the Grantor and Grantee have the common purpose of conserving the above-described conservation values of the Protected Property in perpetuity; and

WHEREAS, the State of Rhode Island has authorized the creation of Conservation Easements pursuant to Rhode Island General Laws Title 34, Chapter 39 and Title 45 Chapter 36 and Grantor and Grantee wish to avail themselves of the provisions of those laws.

This Conservation Easement on the Protected Property is granted exclusively for the following conservation purpose:

PURPOSE

This Conservation Easement is intended to provide a significant public benefit by protecting and preserving in perpetuity the natural and undeveloped character of the Protected

Property including its ecological, scientific, educational, recreational and aesthetic values in its present state as a mostly natural area.

Purpose. It is the purpose of this Conservation Easement to assure that the Protected Property will be used and maintained as a park and for other purposes, in accordance with the wishes of Miss Mary LeMoine Potter set forth in a certain Declaration of Kingston Improvement Association dated June 5, 1933, and recorded in the Town of South Kingstown Land Evidence Records in Book 48 at page 282, and retained forever predominately in its undeveloped, natural, scenic, forested, and open space condition, consistent with the terms of this Conservation Easement, including its recitals, and to protect any rare plants, animals, or plant communities on the Protected Property; to provide public access to trails and opportunities for active recreation, and to prevent any use of the Protected Property that will significantly impair or interfere with the conservation values or interests of the Protected Property described above. Grantor and Grantee intend that this Conservation Easement will confine, in perpetuity, the uses of the Protected Property to such activities as are compatible with the purpose of this Conservation Easement and the “Management Plan”, incorporated herein by reference.

The Management Plan sets forth specific procedures by which the Protected Property shall be maintained and lists current and allowed future uses of both areas of the Protected Property: being the Active Recreation Area and the Passive Recreation Area. Grantor shall prepare the Management Plan which shall be reviewed for compliance with this Easement and if deemed in compliance, approved by Grantee. Grantor shall have the right from time to time to propose amendments to the Management Plan, which shall be reviewed and approved by Grantee, if deemed appropriate.

NOW THEREFORE, the Grantor and Grantee have established this Conservation Easement on, over, and across the Protected Property consisting of the foregoing recitals and Purpose, and the following terms, covenants, restrictions and affirmative rights granted Grantee, its successors and assigns, which shall run with and bind the Protected Property and Grantor, its successors and assigns, in perpetuity:

1. Land Use. The Protected Property may be used only for conservation, low-impact outdoor recreation, and natural resource management activities that do not adversely affect its

important natural, ecological and habitat values, nor detract from its natural and scenic character.

2. Prohibited Uses. Any activity on or use of the Protected Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, **except as provided below, or in the Management Plan**:

- 2.1 There shall be no constructing or placing of any building, tennis or other recreational court, landing strip, mobile home, swimming pool, fence or sign, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, sodium vapor light or any other temporary or permanent structure or facility on or above the premises, except as provided in sections 3.3 and 3.4 and 4.5 below or in the Management Plan.

- 2.2 There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads or change in the topography of the land in any manner, except as provided in sections 3.3 and 3.4 below or in the Management Plan.

- 2.3 There shall be no removal, destruction or cutting of trees, shrubs or plants, planting of trees, shrubs or plants, use of fertilizers, introduction of non-native animals or plants, grazing of domestic animals, or disturbance or change in the natural habitat in any manner, except as provided in section 3.5 below or in the Management Plan.

- 2.4 There shall be no use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides, and no use of devices commonly known as "bug-zappers", except as described in the Management Plan, as the same may be amended from time to time.

- 2.5 There shall be no storage or dumping of ashes, trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, or under the Protected Property; there shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall activities be conducted on the Protected Property or on adjacent property if owned by Grantor which could cause erosion or siltation on the Protected Property, except for those activities permitted in the Management Plan.

- 2.6 There shall be no pollution, alteration, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall there be activities conducted on the Protected Property or on adjacent property if owned by Grantor, which would be detrimental to water purity, or which could alter

natural water level and/or flow in or over the Protected Property, except for those activities permitted in section 3.4 below or as described in the Management Plan, which includes the use of a portion of Protected Property for the skating pond.

2.7 There shall be no operation of motorized boats or any other types of mechanized vehicles, snowmobiles, dune buggies, motorcycles, all-terrain vehicles, hang gliders, aircraft, jet skis, except such motorized vehicles as are necessary for the maintenance of the Protected Property as described in the Management Plan, or to protect the Protected Property during an emergency, or to provide access to the Protected Property pursuant to the Americans with Disabilities Act, as may be amended, pursuant to section 3.3, nor shall the Protected Property be used for any commercial recreational activity, except as described in the Management Plan or with prior written approval of Grantee as specified in section 3.1 below.

2.8 The entire Protected Property described in **Exhibit A** may be granted, sold, exchanged, gifted, transferred or otherwise conveyed in unified title as one (1) parcel only, EXCEPT that the area designated on the plan and described in **Exhibit A** as the Active Recreation Area may be subdivided from the remainder of the Protected Property and separately conveyed, subject to the restrictions contained herein. As to the remainder of the Protected Property (Passive Recreation Area), the following are expressly prohibited: the legal or 'de facto' division or subdivision of the Property, which shall include, but shall not be limited to, any subdivision, short subdivision into remainder tracts, platting, testamentary division or other process by which the Property is divided in ownership or in which legal or equitable title to different portions of the Property are held by different owners. Grantor may not indirectly divide any of the Property through the allocation of property rights among partners, shareholders or members of any legal entity, creation of a horizontal property regime, interval or time-share ownership, partitioning among tenants-in-common, judicial partition or by any other means.

2.9 The Protected Property and any portion thereof shall not be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferrable development rights scheme or cluster development arrangement or otherwise.

2.10 There shall be no hunting or trapping of animals on the Protected Property, except for wildlife management, and research purposes, or as described in the Management Plan.

3. Grantor's Rights. It is the purpose and intent of all parties to restrict any uses of the Protected Property which are inconsistent with the conservation values. However, it is not the purpose or intent to restrict Grantor's exercise of its rights incident to ownership and alienation.

Notwithstanding anything else set forth in this Conservation Easement, and without limiting the generality of the other rights granted to the Grantor, the Grantor hereby reserves and is granted the right to do and perform the following activities on the Protected Property, or a portion of the Property, in accordance with the applicable laws of the State of Rhode Island and subject to this Conservation Easement and the Management Plan:

3.1 The right to use and maintain the Protected Property as a park. The right to undertake or continue any activity or use of the Protected Property not prohibited by this Conservation Easement. Prior to making any change in use of the Protected Property, the Grantor shall notify the Grantee in writing, pursuant to paragraph 4.6 below, allowing Grantee to determine whether such change would violate the terms of this Conservation Easement.

3.2 The right to sell, give, mortgage, lease, or otherwise convey the Protected Property, either in its entirety or as described in Section 2.8 herein, provided such conveyance is subject to the terms of this Conservation Easement and written notice is provided to Grantee in accordance with paragraph 21.6 below.

3.3 The right to maintain such structures, paths or roads as currently exist on the Passive Recreation Area as described in **Exhibit A** on the Protected Property (which may be repaired or replaced, on the same site, in whole or in part by like structures, paths or roads used for the same or similar purposes). The right to install fencing, kiosks, or signage for trails and other needs. The right to create additional trails, including those which meet ADA (Americans with Disabilities Act) standards. The right to use motorized vehicles to maintain the property on such paths and roads.

3.4 The right to maintain, improve, remove, expand or install active recreation facilities, structures, paths, roads or parking areas in the Active Recreation Area as described in **Exhibit A**. The surface of such parking areas must be permeable. Installation of utilities, including but not limited to electricity and water, in the Active Recreation Area is also permitted. Any outdoor lighting in the Active Recreation Area will be dark-sky friendly.

3.5 The right to cut and remove invasive and/or exotic trees, shrubs or plants or diseased trees, shrubs, or plants and to cut firebreaks. The right to plant native trees, shrubs and other plants. The right to manage the Protected Property in accordance with a forest management plan prepared by a certified forester.

3.6 Grantor and Grantee acknowledge that the exercise of any reserved right enumerated herein by the Grantor shall not relieve Grantor from complying with or obtaining any permit from any applicable governmental authority prior to the exercise thereof.

4. Grantee's Rights. To accomplish the purpose of this Conservation Easement, the following rights are conveyed to Grantee by this Conservation Easement:

4.1 The right to preserve and protect the conservation values of the Protected Property;

4.2 Right of Entry. The right to enter the Protected Property at all reasonable times, for the purposes of: (a) inspecting the Protected Property to determine if the Grantor is complying with the covenants and purposes of this Conservation Easement; (b) enforcing the terms of this Conservation Easement; (c) taking any and all actions with respect to the Protected Property as may be necessary or appropriate, with or without order of court, to remedy or abate violations hereof; (d) making scientific and educational observations and studies and taking samples in such a manner as will not disturb the quiet enjoyment of the Protected Property by the Grantor; and (e) monitoring and management as described below;

4.3 Monitoring and Management. The right to monitor the property at least annually. The right to post signs (with content approved by the Grantor) identifying boundaries of the Conservation Easement areas. The right, but not the obligation, to monitor the condition of the rare plant and animal populations, plant communities, and natural habitats on the Protected Property, and to manage them, if necessary, to ensure their continued presence and viability on the Protected Property;

4.4 Enforcement. The right to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Conservation Easement or the Management Plan and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use, pursuant to paragraph 11;

4.5 Signage. All new signage on the Protected Property which names the Grantor shall indicate that the Protected Property is permanently protected by the Grantee; and

4.6 Grantee's Approval or Withholding of Approval. When Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefor. In the case of withholding of approval, Grantee shall notify Grantor in writing with reasonable specificity of the reasons for withholding of approval, and the conditions, if any, on which approval might otherwise be given. Failure of Grantee to respond in writing within such sixty (60) days shall be deemed to constitute denial by Grantee of any such request submitted for approval. A deemed denial shall be treated by all parties as procedural, rather than substantive, and Grantor may re-submit the request for approval without prejudice.

5. Access. Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or use the Protected Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Conservation Easement.
6. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including the maintenance of adequate comprehensive general liability insurance coverage. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement and requiring that such permits and approvals and all such activities or uses and all such activities or uses shall be undertaken in accordance with all applicable federal, state, and local laws, regulations and requirements. Grantor shall keep the Grantee's interest in the Protected Property free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor.
7. Hold Harmless. Grantor hereby releases and agrees to hold harmless, defend and indemnify Grantee and its members, directors, officers, employees, agents, contractors, and the heirs, personal representatives, successors and assigns of each of them from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause. Grantee hereby releases and agrees to hold harmless, defend and indemnify Grantor from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees which Grantor may suffer or incur as a result of or arising out of the activities of Grantee on the Protected Property.
8. Taxes. Grantor agrees to pay any real estate taxes or other assessments levied on the Protected Property. If Grantor becomes delinquent in payment of said taxes or assessments, such that a lien created against the land is to be executed upon, the Grantee, at its option, shall, after written notice to Grantor, have the right to purchase and acquire the Grantor's interest in said Protected Property by paying funds to discharge said lien or delinquent taxes

or assessments, or to take such other actions as may be necessary to protect the Grantee's interest in the Protected Property and to assure the continued enforceability of this Conservation Easement.

9. Title. Grantor covenants and represents that it is the sole owner and is seized of the Protected Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; and except as provided in section 9.1, that the Protected Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement, and that Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid Conservation Easement.

9.1 Existing Encroachment. As a result of an existing boundary line encroachment, Grantor has entered into a License Agreement, dated January 22, 2021, with the present owners of abutting property designated as Tax Assessor's Plat 31-3 Lot 44, as of December 31, 2020, which License Agreement is recorded in the South Kingstown Land Evidence Records on February 8, 2021 in Book 1776 at Page 554. Until said License Agreement is terminated, the terms of that Agreement supersede those contained in this Conservation Easement as to the Licensed Area only.

10. Hazardous Waste. Grantor covenants and represents that no hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, or deposited in or on the Protected Property, and that there are not now any underground storage tanks located on the Protected Property.

11. Grantee's Remedies. If Grantee becomes aware of a violation of the terms of this Conservation Easement, or that a violation is threatened, the Grantee shall give written Notice to Grantor. The notice shall contain the specifics of the violation including the location, time, cause and how the violation came to the attention of the Grantee. The notice shall also state the specific corrective action deemed necessary by the Grantee to abate such violation and restore the Protected Property to its previous condition at the time of this grant. Grantor agrees that the Baseline Documentation Report shall be deemed to provide objective information concerning the Protected Property's condition at the time of this grant. Failure by the Grantor to act in accordance with the Grantee's notice and stated relief within sixty (60) days after receipt of such notice shall entitle Grantee to bring an action at law or equity in a

court of competent jurisdiction to enforce the terms of this Conservation Easement; to require the restoration of the Protected Property to its previous condition; to enjoin such non-compliance by ex parte temporary or permanent injunction in a court of competent jurisdiction; and/or to recover any damages arising from such noncompliance. Damages may only be awarded against the Grantor for action or actions or activity conducted or approved by the Grantor or due to Grantor's gross negligence or willful misconduct. Damages, if recovered by the Grantee, may be applied, in its sole discretion, to corrective action on the Protected Property, unless those damages are awarded specifically for such corrective action to which they shall be applied, unless agreed to by the Grantor. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement.

11.1 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Property, Grantee may pursue its rights and remedies under this paragraph without prior notice to Grantor or without waiting for the period for cure to expire.

11.2 Failure to Act or Delay. Enforcement of the terms of this Conservation Easement shall be at the sole discretion of the Grantee, and any forbearance or delay by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor, shall not be deemed or construed to be a waiver. Grantee does not waive or forfeit the right to take action as may be necessary to insure compliance with this Conservation Easement by any prior failure to act.

11.3 Waiver of Certain Defenses. Grantor hereby waives any defense of estoppel or prescription, or laches with respect to any delay by the Grantee, its successors or assigns, in acting to enforce any restriction or exercise any rights under this Conservation Easement.

11.4 Violations Due to Causes Beyond Grantor's Control. Nothing herein shall be construed to entitle Grantee to institute any enforcement proceedings against Grantor for any changes to the Protected Property due to causes beyond Grantor's control, such as changes caused by fire, flood, storm, earthquake or the unauthorized wrongful acts of third persons. In the event of violations of this Conservation Easement caused by unauthorized wrongful acts of third persons, the Grantor will first try to address the violations. If the Grantor is not able to address this problem, at Grantee's option, the Grantor agrees to assign its right of action to Grantee, to join in any suit, and/or to appoint Grantee its attorney-in-fact for the purposes of pursuing enforcement action.

11.5 Standing. By virtue of Grantee's acquisition of rights under this Conservation Easement, it shall be entitled, at its option, to standing before appropriate courts of law to pursue remedies or other matters which are necessary or incidental to the protection of the property which is subject to this Conservation Easement.

11.6 Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including without limitation, costs of suit and attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Conservation Easement, shall be borne by Grantor.

12. Parties Subject to Easement. The covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall not only be binding upon Grantor but also its lessees, agents, personal representatives, successors and assigns, and all other successors to Grantor in interest and shall continue as a servitude running in perpetuity with the Protected Property.
13. Subsequent Transfers. Grantor agrees to incorporate the terms, conditions, restrictions and purposes of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests either the fee simple title or possessory interest in the Protected Property; and Grantor further agrees to notify Grantee of any pending transfer at least thirty (30) days in advance of any proposed sale and provide the opportunity for the Grantee to explain the terms of this Conservation Easement to potential new owners prior to the sale closing. This notice shall include the address of the transferee. Failure to provide this notice shall not in any way affect the validity or enforceability of the Conservation Easement against any subsequent owner of the Protected Property, or the validity of the conveyance.
14. Merger. The Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Protected Property.
15. Assignment. The parties hereto recognize and agree that the benefits of this easement are in gross and assignable, and Grantee hereby covenants and agrees that in the event it transfers or assigns the easement it holds under this indenture, the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, which is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, and Grantee further covenants and agrees that the terms of the transfer or assignment will be such that the

transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes which the contribution was originally intended to advance.

16. Discretionary Approvals and Amendments.

16.1 Discretionary Approvals. Grantor and Grantee recognize that certain activities by the Grantor may warrant the prior discretionary approval of the Grantee, and that Grantee has the right to issue such discretionary approvals without prior notice to any other party. Nothing in this paragraph shall require either party to agree to any discretionary approval.

16.2 Amendments. Grantor and Grantee recognize and agree that natural conditions, landscapes, consistent uses, and technologies change over time, and unforeseen or changed circumstances could arise in which an amendment to certain terms or restrictions of this easement would be appropriate and desirable and as further described below to this end, the Grantor and Grantee have the right to agree to amendments to this Conservation Easement, all in accordance with: (i) the provisions and limitations of this Paragraph 16; (ii) the then current Amendment Policy of the Grantee; and (iii) applicable governmental laws, rules, and/or regulations.

- a. Amendment Requirements. Grantee shall not consent to any amendment of this Easement unless Grantor submits a written request for amendment pursuant to Grantee's existing Amendment Policy and such amendment otherwise qualifies under Grantee's policy then in effect respecting conservation easement amendments. The effect of such amendment: (i) should be an enhancement but shall be at least neutral with respect to any impact on the Conservation Values; (ii) shall be consistent with the Conservation Values of this Conservation Easement; (iii) shall comply with IRS Code Section 170(h) , RIGL §34-39-5(b) and (c), and any regulations promulgated pursuant to such sections, and all other applicable federal, state and local laws; (iv) shall be consistent with the Grantee's public mission; (v) shall not jeopardize Grantee's tax-exempt status as a charitable organization under federal or state law; and (vi) shall not result in private inurement or confer impermissible private benefit. Grantor and Grantee may amend this Conservation Easement to be more restrictive to comply with the provisions of IRS Code Section 203(c). Grantee shall require subordination of any mortgage as a condition of permitting any amendment to this Conservation Easement. Any amendment shall be executed by Grantor and Grantee and shall be recorded in the land evidence records of the Town of South Kingstown. Nothing in this paragraph shall require the Grantor or the Grantee to agree to any amendment or to negotiate regarding any amendment.
- b. Costs. If Grantor is the party requesting an amendment of this Conservation Easement, Grantor shall be responsible for all reasonable and customary fees and costs related to Grantee's evaluation of said request and an amendment's execution, including reasonable attorney's fees and cost, staff, contractor,

legal, expert, consultant fees and costs incurred by Grantee, and any costs associated with any updated Baseline Documentation Report prepared pursuant to the provisions of this Section.

- c. Updated Baseline Documentation. In the event Grantor and Grantee agree to an amendment pursuant to this Section that results in alterations to the land, then the Baseline Documentation Report shall be supplemented appropriately to reflect the modification scope, scale and intensity. The supplement shall be acknowledged by Grantor and Grantee as memorializing the condition of the Property as of the date of the amendment.

16.3 Further Limitations on Discretionary Approval and Amendments.

Notwithstanding the foregoing, except as may be provided under RI General Laws 1956, as amended, Chapter 34-39-1 et seq, by which a Conservation Easement may be amended by court approval in an action in which the Attorney General is made a party, Grantee and Grantor have no right or power to approve any action or agree to any discretionary approval or amendment that would:

- a) materially detract from the conservation values intended for protection under this Conservation Easement; or
- b) limit the term or result in the partial or complete termination of this Conservation Easement; or
- c) adversely affect the qualification of the Conservation Easement or the status of the Grantee under applicable state statute including Chapter 39 Title 34 of the Rhode Island General Laws, as amended and section 170(h) of the Internal Revenue Code of 1954, as amended and Sections 501(c)(3), 2522 and 2031(c) of the Internal Revenue Code, successor provisions thereof and regulations issued pursuant thereto.

17. Extinguishment. Grantor hereby agrees that at the time of the conveyance of this

Conservation Easement to Grantee, this Conservation Easement gives rise to a real property right, immediately vested in Grantee, with a fair market value of said Conservation Easement as of the date of the conveyance that is at least equal to the proportionate value that this Conservation Easement at the time of the conveyance bears to the fair market value of the Protected Property as a whole at that time.

That proportionate value of Grantee's property rights shall remain constant. When a change in conditions takes place which makes impossible or impractical any continued protection of the Protected Property for conservation purposes, and the restrictions contained herein are extinguished by judicial proceeding, the Grantee, upon a subsequent sale, exchange or involuntary conversion of the Protected Property, shall be entitled to a portion of the proceeds at least equal to that proportionate value of the Conservation Easement. Grantee

shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in and defined under P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended and in regulations promulgated thereunder.

18. Condemnation. Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Conservation Easement conveyed hereby, Grantor and Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered. The balance of the damages recovered shall be divided in accordance with the proportionate value of Grantee's and Grantor's interests, and Grantee's proceeds shall be used as specified above. All expenses incurred by Grantor and Grantee in such action shall be paid out of the recovered proceeds.
19. Notice of Intention to Undertake Certain Permitted Actions. In order to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Conservation Easement, the Grantor shall notify the Grantee and submit plans prior to construction of any permitted structure (permitted structures are those listed in Paragraph 3 herein and the Management Plan, if applicable) on the Protected Property in writing not less than sixty (60) days prior to the date Grantor intends to undertake construction of any proposed structure on the Protected Property. The notice shall describe the improvements in sufficient detail to permit Grantee to make an informed judgement as to its consistency with the purpose of this Conservation Easement, and to consent or object to the construction accordingly. Where Grantee's approval is required, as set forth herein, Grantee shall grant or withhold its approval within sixty (60) days of receipt of Grantor's written request therefore. To the extent such approval may be required, Grantee's approval of any permitted structure or use may not be unreasonably withheld, and can only be withheld upon a reasonable determination by Grantee that the action, as proposed, would be inconsistent with the purpose of this Conservation Easement.
20. Permits and Approvals. The conveyance of this Conservation Easement by Grantor to Grantee shall not relieve Grantor of the obligation and responsibilities to obtain any and all

applicable federal, state, and local governmental permits and approvals, if necessary, to exercise Grantor's retained rights and uses of the Protected Property even if consistent with the conservation purposes of this Conservation Easement.

21. Miscellaneous Provisions.

21.1 Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

21.2 Successors and Assigns. The term "Grantor" shall include the Kingston Improvement Association and its successors and assigns. The term "Grantee" shall include the South Kingstown Land Trust and its successors and assigns.

21.3 Re-recording. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Easement; for such purpose, the Grantor appoints Grantee its attorney-in-fact to execute, acknowledge and deliver any necessary instrument on its behalf. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request.

21.4 Captions. The captions herein have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.

21.5 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

21.6 Notices. Any notices required in this Conservation Easement shall be sent by certified mail to the following address or such address as may be hereafter specified by notice in writing, or by other verifiable methods:

Grantor: Kingston Improvement Association, PO Box 141, Kingston RI 02881.

Grantee: South Kingstown Land Trust, 17 Matunuck Beach Road,
South Kingstown RI 02879.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Grantee forever.

IN WITNESS WHEREOF, the Grantor has executed and sealed this document the day and year first above written.

Witness: KINGSTON IMPROVEMENT ASSOCIATION
Grantor

By: Susan Spranger Axelrod
Its: President

Witness: SOUTH KINGSTOWN LAND TRUST
Grantee

By: Julia Fry Landstreet
Its: Executive Director

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

In the Town of South Kingstown, on this ____ day of _____, 2021, before me personally appeared Susan Spranger Axelrod, President of the Kingston Improvement Association, a Rhode Island non-profit corporation, to me known and known by me or proved to me through satisfactory evidence to be the party executing the foregoing instrument on behalf of said corporation; and acknowledged that she executed said instrument with proper authority for the purpose stated therein as her free act and deed in said capacity and the free act and deed of said corporation.

Notary Public
My Commission Expires:

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

In the Town of South Kingstown, on this ____ day of _____ 2021, before me personally appeared Julia Fry Landstreet, Executive Director of the South Kingstown Land Trust, a Rhode Island non-profit corporation, to me known and known by me or proved to me through satisfactory evidence to be the party executing the foregoing instrument on behalf of said corporation; and acknowledged that she executed said instrument with proper authority for the purpose stated therein as her free act and deed in said capacity and the free act and deed of said corporation.

Notary Public
My Commission Expires:

EXHIBIT A
Parcel Description

Parcel 1:

**DESCRIPTION OF
ACTIVE RECREATION AREA**

**BEING A PORTION OF POTTER WOOD
ASSESSORS PLAT 31-3 LOT 44
(Lot 44 being the hereinafter described parcel)**

Beginning at a point with the intersection made with the most westerly line of South Road and the most northerly line of Heritage Drive. Said point being marked with a drill hole at the corner of an existing stone wall and being the most southeasterly corner of the area herein described.

Thence N 80° 03' 53" W following the face of the stone wall and running with the said northerly line of Heritage Drive a distance of 355.71 feet to a drill hole marking an angle in said Active Recreation Area line, as shown on the Plat.

Thence N 10° 35' 27" E passing through said lot 44 a distance of 341.20 feet to a drill hole in the centerline of a stone wall at an angle point.

Thence N 75° 11' 11" W following the centerline of a stone wall and passing through said lot 44 a distance of 181.02 feet to a drill hole set at the centerline of a stone wall at an angle point.

Thence N 09° 51' 14" E passing through said lot 44 a distance of 826.13 feet to a drill hole set in the centerline of a stone wall being the northwesterly corner of the Recreation Area herein described.

Thence S 54° 15' 16" E following the centerline of the stone wall and passing through said lot 44 and following the most southerly line of land now or formerly owned by Elliot D. Wilk and Barbara A. Wilk a distance of 649.83 feet to the said westerly line of South Road.

Thence S 13° 13' 15" W following the face of a stone wall and running with the most westerly line of South Road a distance of 901.25 feet to the point and place of beginning.

Said parcel being more particularly described and delineated as "ACTIVE RECREATION AREA 522,720 Sq. Ft. 12.000 Acres" on that Plat entitled: "KINGSTON IMPROVEMENT ASSOCIATION AND SOUTH KINGSTOWN LAND TRUST Assessor's Plat 31-3 Lot 44 South Road South Kingstown Rhode Island Boundary Survey National Surveyors-Developers, Inc. Scale 1"= 60' February 2020", which said plan is recorded in the Land Evidence Records of the Town of South Kingstown as Plat 21-_____.

Parcel 2

**DESCRIPTION OF
PASSIVE RECREATION AREA**

ALL THAT CERTAIN LOT or parcel of land, containing 64.7 acres, more or less, with the buildings and improvements thereon, situated near Kingston Village in the Town of South Kingstown, County of Washington, State of Rhode Island, being bounded and described as follows:

BEGINNING at a marked drill hole in the foundation of the wall at the north-easterly corner of land conveyed by Mary LeMoine Potter to Lester S. Reels and wife on March 20, 1935;

thence southerly following the line of the wall one hundred twenty-one (121') feet, bounding westerly by said land of Lester S. Reels and wife;

thence at an angle of 266°-52'-30", to the right and running westerly, following the line of the wall, two hundred forty-seven and eighty-eight one-hundredths (247.88') feet, bounding northerly by said land of Lester S. Reels and wife;

thence southerly, following the line of the wall, one hundred twelve and seventy-nine one-hundredths (112.79') feet, bounding westerly by said land of Lester S. Reels and wife;

thence at an angle of 179°-56'-30" to the right, one hundred eighty-nine and sixteen one-hundredths (189.16') feet;

thence at an angle of 180°-19'-30" to the right, three hundred fifty-one and six tenths (351.6') feet;

thence at an angle of 180°-06' to the right, four hundred thirty-two and six tenths (432.6') feet;

thence at an angle of 179°-12' to the right, two hundred twenty-nine and twenty-seven one-hundredths (229.27') feet to land now or formerly of Marion B. Smith, bounding westerly by land now or formerly of Mary LeMoine Potter, in possession of the Bernon-LeMoine Water Company, and by land now or formerly of the Bernon-LeMoine Water Company;

thence running easterly, following the wall marking the northerly boundary of land now or formerly of Marion B. Smith, one thousand seven hundred forty-six (1,746') feet, more or less, or until it intersects the westerly line of the South Road so-called, bounding southerly by land of now or formerly of Marion B. Smith;

thence northerly along the westerly line of the South Road, eight hundred ninety-nine (899') feet, more or less, to land now or formerly of Elizabeth T. Damon, bounding easterly by the South Road;

thence northwesterly three hundred thirty-seven and five tenths (337.5') feet, more or less, to the southwest corner of land now or formerly of Elizabeth T. Damon, bounding northeasterly by said land now or formerly of Elizabeth T. Damon;

thence northerly three hundred eighty-nine and seven tenths (389.7') feet, more or less, to a stone bound, bounding easterly by said land now or formerly of Elizabeth T. Damon;

thence northwesterly one thousand four hundred thirty-five and four tenths (1,435.4') feet, more or less, to a stone bound in the easterly line of land now or formerly of Philip E. Douglass, bounding northeasterly by land now or formerly of Mary LeMoine Potter;

thence southerly three hundred fifty-four and five tenths (354.5') feet, more or less, to the southeasterly corner of said land now or formerly of Philip E. Douglass, bounding westerly by said land now or formerly of Philip E. Douglass;

thence northwesterly one hundred sixty-three and fifty-five one-hundredths (163.55') feet to an iron pipe in the wall, bounding northeasterly by said land now or formerly of Philip E. Douglass;

thence at an angle of 246°-31' to the right and running northerly seven and twenty-five one-hundredths (7.25') feet to a marked drill hole in the foundation of the wall at the southerly end of the Biscuit City Road or highway, bounding easterly by said land now or formerly of Philip E. Douglass;

thence at an angle of 75°-41' to the right and running westerly ten and eighty-two one-hundredths (10.82') feet to a drill hole, bounding northerly by the southerly line of the Biscuit City Road;

thence at an angle of 111°-53'-30" to the right running southerly, following the easterly line of land now or formerly of the Bernon-LeMoine Water Company, thirty-six and forty-two one-hundredths (36.42') feet to the northwesterly corner of land conveyed March 20, 1935 to James M. C. Reels and wife by Mary LeMoine Potter, bounding westerly by land now or formerly of the Bernon-LeMoine Water Company;

thence southeasterly following the northeasterly line of land as conveyed to the said James M. C. Reels and wife, two hundred thirty-four and thirteen one-hundredths (234.13') feet to an iron bolt at the northeasterly corner of said land now or formerly of James M.C. Reels and wife bounding southwesterly by said land now or formerly of James M. C. Reels and wife;

thence at an angle of 250°-31' to the right and running southerly, one hundred seventy-two and fifty-eight one-hundredths (172.58') feet to a marked drill hole in the foundation of the wall, bounding westerly by said land now or formerly of James M. C. Reels and wife;

thence at an angle of 90°-00' to the right and running easterly one hundred two and forty-eight one-hundredths (102.48') feet to the place of beginning, bounding southerly by land now or formerly of Lester S. Reels and wife, or however otherwise bounded and described.

BE ALL SAID MEASUREMENTS, more or less, or however otherwise the same may be bounded and described.

For a more particular description of the herein described tract, reference is hereby made to that certain plat entitled: "Plat of Land near Kingston Village in the Town of South Kingstown, R.I. Conveyed by Mary LeMoine Potter to Kingston Improvement Association, compiled from a recorded plan, as drawn by J. Castellucci and D. Nardelli, and the westerly line from A to B actual surveys by Leon L. Holland, March, 1935, Leon L. Holland, Civil Engineer." which said plat is recorded in the South Kingstown Land Evidence Records in Book 49 between pages 118 and 119.

Meaning and intending to describe the same premises set forth in that deed of Mary LeMoine Potter to Kingston Improvement Association, dated March 20, 1935 and recorded March 21, 1935 in the said South Kingstown Land Evidence Records in Book 49 at Page 118.

BEING designated as Lot 44 on Tax Assessor's Plat 31-3 of the Town of South Kingstown, as presently constituted, for reference purposes only.

EXCEPTING THEREFROM the parcel of land described as Parcel 1 hereinabove, Active Recreation Area.

This Parcel 2 being further described and delineated as "PASSIVE RECREATION AREA" on that plat entitled "KINGSTON IMPROVEMENT ASSOCIATION AND SOUTH KINGSTOWN LAND TRUST Assessor's Plat 31-3 Lot 44 South Road South Kingstown Rhode Island Boundary Survey National Surveyors-Developers, Inc. Scale 1"= 60' February 2020", which said plan is recorded in the Land Evidence Records of the Town of South Kingstown as Plat 21-_____.

EXHIBIT B
Baseline Documentation