

GRANT OF TRAIL EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS that Clark W. Hinsdale, III, of Charlotte, Vermont, on behalf of himself, his heirs, executors, administrators, successors and assigns ("Owner"), pursuant to the authority granted in Title 10 V.S.A. Chapter 155 and in consideration of the payment of Ten Dollars and other valuable consideration paid to their full satisfaction, do freely give, grant, sell, convey and confirm unto the Town of Charlotte, a Vermont municipality located in the County of Chittenden, State of Vermont ("Holder") forever, a perpetual, and non-exclusive easement for a right-of-way all as more particularly set forth below, over a certain parcel of land located in the Town of Charlotte, Vermont (the "Property"). The Property is more particularly described in Schedule A attached hereto and incorporated herein. The location of the right-of-way easement conveyed hereby is more particularly described in Schedule B attached hereto and incorporated herein (the "Corridor"). A trail shall be located within the Corridor and may be improved as provided below (the "Trail"). This Easement also contains covenants on the part of Owner and the Holder to do or refrain from doing various acts as set forth below. It is hereby acknowledged that this Easement constitutes a servitude upon the land and runs with the land. Holder accepts this Easement in order to provide public access to recreational opportunities and activities throughout the Corridor.

I. PURPOSES.

The purposes of this Easement as set forth in this Section I are hereinafter collectively referred to as the "Purposes of this Easement." Owner and Holder acknowledge that the Purposes of this Easement are to provide permanent and perpetual public, recreational use of the Corridor, and to locate the Corridor so that it provides public non-commercial recreational access across the Property in a manner that enhances the outdoor experience, to establish a Trail without undue expense, and to implement these purposes while substantially preserving Owners' quiet use and enjoyment of the Property.

II. USES.

1. **Public Access:** Holder may permit, in its sole discretion, public access to the Corridor for four-season, pedestrian or mechanized, non-motorized recreational activities, such as walking, skiing, mountain biking or riding horses. Except as provided below, motor vehicles are not permitted. Overnight camping and campfires are not permitted. Permitted hours of use are from dawn to dusk. Recreational use outside the above hours is allowed with special permission from Owner and Holder. Holder shall have the right, in its sole discretion, to restrict or limit public use of and access to the Corridor. If use of the Corridor materially interferes with Owner's quiet enjoyment of the Property on a frequent basis, and measures taken by Holder do not, in Owner's reasonable opinion, sufficiently abate the interference, Owner may close the Corridor for a period not to exceed two weeks to enable Holder to take corrective action. Owner shall provide written notice five (5) days in advance to Holder of such Corridor closure.

2. **Corridor Location:** While the location of the Corridor is generally described in Schedule B attached hereto and incorporated herein, the precise location shall be fixed on the ground by mutual agreement of Holder and Owner, and marked by blazing, signs or otherwise along the perimeter of the Corridor by Holder. The Corridor location may be altered from time to time by mutual consent of Holder and Owner and with the prior written approval of Vermont Land Trust, Inc. pursuant to Section III(12) of a Grant of Development Rights, Conservation Restrictions, Option to Purchase and Right of Enforcement of the United States conveyed by Owner to Vermont Land Trust, Inc. and Vermont Housing and Conservation Board, dated _____, and recorded in Book ___, Page ___ of the Charlotte Land Records (the "Grant"). Owner and Holder shall locate the Corridor in a manner consistent with the Purposes of this Easement.

III. OBLIGATIONS

1. **Trail Construction:** Subject to the limitations contained in Section III of the Grant, Holder shall have the right, but not the obligation, at Holder's expense, to construct, manage, use, repair and maintain a Trail, including the right to install, maintain, repair and replace waterbars, steps and other trail surface structures, as well as bridges and/or culverts as necessary to traverse surface waters within the Corridor. Holder is responsible for obtaining any permits necessary for trail construction. Prior to initial Trail installation, Trail relocation within the Corridor, and major maintenance activity, Holder shall give at least two weeks' advanced notice to Owner by certified mail, return receipt requested. The Trail shall not exceed eight (8) feet in width within the twenty (20) foot wide Corridor. The Trail may be relocated within the Corridor at the Holder's sole discretion after giving notice to Owners as provided above.

2. **Vegetation Management:** Holder shall not cut or remove any vegetation from the Property until the Corridor has been located on the ground as provided above. Holder may clear brush as required to maintain the Trail and may remove overgrown, dead, dying or diseased vegetation within the Corridor which poses a safety risk to Trail users after the Trail has been constructed; otherwise Holder may cut or remove additional vegetation only with the prior written consent of Owner. Holder shall not employ herbicides, pesticides, growth inhibitors or other chemicals within the Corridor without the prior written consent of Owner. Owners shall not harvest any trees in the Corridor without the prior written consent of Holder, except that Owner may remove dead, diseased or dying trees without prior permission of Holder, provided that Owner has given Holder notice of the proposed activity so that Holder can divert public use of the Trail if necessary.

3. **Fencing, Barriers and Signs:** Holder, or Owner with Holder's prior written consent, may erect and maintain such fencing and barriers within the Corridor as may be reasonably necessary to prevent access to the Trail by motor vehicles. Holder shall have the right to erect reasonable signs, blazing or other markings within the Corridor to inform the public of the Trail location or other Trail features. Owner shall not erect fences, barriers or signs that impede access to or use of the Trail without prior agreement of the Holder.

4. **Motor Vehicles:** Holder may use motorized vehicles and equipment within the Corridor to construct, relocate, maintain, repair and patrol the Trail, and for medical emergencies. Owner and Holder shall not use or permit the use of motor vehicles within the Corridor, except as specifically provided in this Section III(4). Holder may permit motor-driven wheelchairs for the use of handicapped persons within the Corridor if consistent with the Purposes of this Easement. Owner or Owner's employees may cross or traverse the Corridor with agricultural and forestry vehicles and equipment as needed for agricultural and silvicultural purposes provided that if the Trail is disturbed by such use, Owners will return it to its pre-existing condition as soon as reasonably practicable.

5. **Stewardship Plan:** The Town of Charlotte has adopted a Trail Stewardship Plan ("Stewardship Plan") for the Town's Trail System. The Stewardship Plan will apply to the Trail and Corridor conveyed herein. If there are differences between the terms and conditions of the Stewardship Plan and this Trail Easement, the terms and conditions of this Easement shall govern. The Owner may request other stewardship practices in addition to or instead of the practices included in the Stewardship Plan. Such requests shall be reviewed by the Charlotte Trails Committee, its successors or assigns, which shall make a recommendation regarding approval to the Charlotte Selectboard, or its successors and assigns. In the event agreement regarding a request for a particular stewardship practice by the Owner cannot be reached, any party may submit unresolved issues to binding arbitration for decision by the arbitrator using the procedures set forth in Section IV below.

6. **Other Uses:** Owner may use the Trail Easement for recreation and open space purposes. Except as specifically permitted under this Easement, no rights-of-way, easements of ingress or egress, driveways, roads, utility lines or other easements shall be constructed, developed or maintained into, on, over,

under, or across the Corridor, without the prior written permission of the Holder. Owner shall use the Corridor exclusively for recreation and open space purposes. No residential or industrial activities shall be permitted, and no building or structure shall be constructed, created, erected or moved into the Corridor, other than the Trail and related surface structures mentioned above.

IV. COMPLIANCE WITH EASEMENT AND BINDING ARBITRATION.

Owner and Holder shall take reasonable steps to periodically inspect the Corridor to assure compliance with this Easement. In the event that Owner or Holder becomes aware of an event or circumstance of non-compliance with this Easement, that party shall give written notice to the other of such event or circumstance of non-compliance via certified mail, return receipt requested, and demand corrective action sufficient to abate such event or circumstance of non-compliance and restore the Corridor to its previous condition. Any event or circumstance of non-compliance with this Easement not corrected voluntarily, or any disagreement as to the location of the Corridor under Section II(2), above, shall be submitted to binding arbitration.

The arbitrator's authority shall include the right to determine whether a violation of this Easement by either Owner or Holder has or continues to occur, and what corrective action is appropriate. Further, the arbitrator shall have the authority to determine the location of the Corridor. Further, the arbitrator's authority shall include the right to determine whether public use of the Corridor materially interferes with Owner's quiet enjoyment of the Property on a frequent basis, whether Holder's corrective action is sufficient, and what additional corrective action should be implemented to achieve the objectives of permitting reasonable public recreational access without materially interfering with Owner's quiet enjoyment of the Property. The arbitrator's authority shall include the right to temporarily close the Corridor to public use.

The arbitrator shall be selected by the parties or by the American Arbitration Association if the parties cannot agree on an arbitrator. The costs of arbitration shall be shared equally by the parties, unless otherwise determined by the arbitrator due to one party being unreasonable or otherwise dilatory. The decision of the arbitrator shall be binding on the parties. The parties shall select an arbitrator within two weeks of the submission of an issue to arbitration, and every reasonable effort shall be made to complete arbitration of any dispute within thirty (30) days of the selection of an arbitrator.

Notwithstanding the foregoing, Owner and Holder reserve the right to bring an action in a court of competent jurisdiction to (1) secure a temporary restraining order or preliminary injunction to maintain the status quo pending the arbitration of a dispute; (2) enforce a directive issued by an arbitrator to maintain the status quo pending disposition of the arbitration proceeding; or (3) enforce a final order issued by the arbitrator. The prevailing party shall be reimbursed the reasonable costs of enforcement, including staff time, court costs and reasonable attorneys' fees, in addition to any other payments ordered by such Court. The remedies described herein are in addition to, and not in limitation of, any other remedies available to Holder at law, in equity, or through administrative proceedings.

No delay or omission by Holder or Owner in the exercise of any right or remedy shall impair Holder's or Owner's rights or remedies or be construed as a waiver. Nothing in this Section IV shall be construed as imposing a liability upon a prior Owner of the Property or Holder of the Easement, where the event or circumstance of non-compliance has occurred after said prior Owner's ownership or control of the Property or said prior Holder's rights in the Easement have terminated.

V. MISCELLANEOUS PROVISIONS.

1. In any deed conveying an interest in all or part of the Corridor, Owner shall make reference to this Easement and shall indicate that this Easement is binding upon all successors in interest in the Corridor in perpetuity. Owner shall also notify the Holder of the name(s) and address(es) of Owner's successor(s) in interest.

2. Holder shall be entitled to rerecord this Easement, or to record a notice making reference to the existence of this Easement, in the Town of Charlotte Land Records as may be necessary to satisfy the requirements of the Record Marketable Title Act, 27 V.S.A., Chapter 5, Subchapter 7, including 27 V.S.A. §§ 603 and 605.

3. The term "Owner" shall include the heirs, executors, administrators, successors and assigns of the original Owner, Clark W. Hinsdale, III. The term "Holder" shall include the successors and assigns of the original Holder, the Town of Charlotte.

4. Invalidation of any provision hereof shall not affect any other provision of this Easement.

5. Holder, its successors and assigns, shall indemnify and defend the Owner and his heirs, executors, administrators, successors and assigns, for any claims arising from the public use of the Trail due to the willful or negligent acts or omissions of the Holder, its successors and assigns, and further acknowledge that it will indemnify and hold Owner harmless to the full limits of liability insurance that Holder customarily maintains for any injury or damage resulting from public use of said Trail Easement not attributable to acts of the Owners. Holder shall continuously maintain said insurance in coverage and policy limits equal to or greater than those existing at the time is easement is executed. Holder acknowledges that this Trail Easement has been donated to the Town of Charlotte, at no cost to the Town, with the intent that Owner shall receive the full benefit and protection afforded by 12 V.S.A. Chapter 203 and 19 V.S.A. §2309.

6. Holder, its successors and assigns, agrees to restore any premises of Owner lying outside of the scope of this Trail Easement disturbed or affected by the public and Holder's exercise of the rights granted hereunder as near as reasonably practicable to their condition prior to any such entry at Holder's own cost and within a reasonable time.

TO HAVE AND TO HOLD said granted Easement, with all the privileges and appurtenances thereof, to the said Holder, the Town of Charlotte, and its successors and assigns, to its own use and behoof forever, and the said Owner, Clark W. Hinsdale, III, for himself and his heirs, executors, administrators, successors and assigns, does covenant with the said Holder, its successors and assigns, that until the ensembling of these presents, he is the sole owner of the Property, and has good right and title to convey the same in the manner aforesaid, that the Property is free from every encumbrance, except those of record, and he hereby engages to warrant and defend the same against all lawful claims whatever.

IN WITNESS WHEREOF, we set our hands and seals this ____ day of _____, 2016.

Signed, sealed and delivered
In The Presence Of:

Owner

Witness to CWH

Clark W. Hinsdale, III

STATE OF VERMONT
_____ COUNTY, ss.

At _____, this ____ day of _____, 2013, Clark W. Hinsdale, III personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed, before me,

Notary Public
My commission expires: 02/10/2019

ACKNOWLEDGMENT OF ARBITRATION

We understand that Section IV of this instrument contains an agreement to arbitrate. After signing this document we understand that we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement set forth in Section IV, unless it involves a question of constitutional or civil rights. Instead, we agree to submit any such dispute to an impartial arbitrator. We understand that the arbitration provisions of this instrument are limited exclusively to matters set forth in said Section IV.

_____ Dated: _____
Clark W. Hinsdale

Town of Charlotte

By: _____ Dated: _____
Its Duly Authorized Agent

**SCHEDULE A
DESCRIPTION OF PROPERTY**

Being all and the same lands and premises conveyed to Owner by Warranty Deed of Clark W. Hinsdale, III, Trustee of the Clark W. Hinsdale, Jr. Testamentary Trust established under Article Fifth (b) of the Last Will and Testament of Clark W. Hinsdale, Jr. dated October 4, 2007, allowed by the Chittenden Probate Court on June 2, 2008, dated February 22, 2016 and recorded in Book 222, Page 435 of the Town of Charlotte Land Records.

**SCHEDULE B
DESCRIPTION OF CORRIDOR LOCATION**

Being a strip of land twenty feet (20') in uniform width over and upon a portion of the Property, the centerline of said Corridor being more particularly described as:

[Insert description here]

The general location of the said Corridor is depicted on a map entitled, "Vermont Land Trust – Hinsdale Farm, Town of Charlotte, Chittenden Co., VT, _____, 201_" signed by the Owner and Vermont Land Trust, Inc., which map is on file with the Town of Charlotte Planning & Zoning Office and the Vermont Land Trust, Inc. The Corridor shall extend ten feet (10') on either side of said centerline.