

## TRAIL EASEMENT

THIS TRAIL EASEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between **REDFERN MUNJOY, LLC**, a Maine limited liability company, with an office in Portland, Maine (hereinafter referred to as “Grantor”), and **PORTLAND TRAILS**, a Maine non-profit corporation with a place of business in Portland, Maine and a mailing address of 305 Commercial Street, Portland, Maine 04101 and the **CITY OF PORTLAND**, a municipal corporation with a mailing address at 389 Congress Street, Portland, Maine 04101 (hereinafter collectively referred to as “Grantee”).

### WITNESSETH

WHEREAS, Grantor is the owner of property on Sheridan Street, Portland, Maine more specifically described in various deeds recorded at the Cumberland County Registry of Deeds in Book \_\_\_, Page \_\_\_ (hereinafter referred to as the “Premises”); and

WHEREAS, Grantor has agreed to grant to Grantee, or other qualified holder, a trail easement over a portion of the Premises as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the parties hereto agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive easement for the purpose of constructing, maintaining, repairing, using and replacing an unpaved (unless paved by Grantor) foot path or walking trail within that portion of the Premises described below, together with improvements delineating such foot path or walking trail, and directional signs, for use by the general public, subject to the conditions and limitations set forth herein.
2. Location. The easement shall be a strip of land as described in Exhibit A attached hereto and incorporated by reference, generally following the location of Sheridan Street and connecting to East Cove Street. The design of the trail and all improvements associated therewith shall be subject to the prior review and approval of Grantor, and its successor, being the contemplated Condominium Association, for compliance with this Easement, which approval shall not be unreasonably withheld. Provided, however, and notwithstanding anything to the contrary contained herein, Grantor reserves the right to relocate all or any portions of the trail and associated improvements provided that all costs and expenses associated with such relocation shall be borne by Grantor so long as such new location reasonably provides connections with the trail destinations.
3. Approvals. Grantee shall obtain any necessary federal, State or local permits and approvals required in connection with the construction of the trail at its sole cost and expense. Grantor shall cooperate to the extent by executing any application or other

forms required for permits.

4. Use. The trail shall be used solely for passive recreational uses during daylight hours limited to pedestrian and non-motorized bicycle traffic and shall exclude any and all motorized/mechanized wheeled/track recreational vehicles of any kind. Wheelchairs or other similar non-recreational vehicles shall be permitted. Grantor reserves the right to remove nuisance persons and activities.
5. Signs. Grantee hereby agrees to install and maintain at its sole cost and expense signs for the Trail. The signs will indicate that public access is limited to the trail. The signs will request that users of the trail respect abutters' privacy by staying within the Trail.
6. Duration. This Easement shall terminate and be of no further force and effect in the event that it shall pass from Grantee to any third party by grant, operation of law or otherwise without the prior written consent of Grantor, its successors or assigns except to a successor non-profit entity with a similar mission to that of Grantee or an assignment to the City of Portland or in the event that Grantee fails to comply with its obligations as set forth herein.
7. Maintenance. Grantor, and its successors, shall reasonably maintain the trail for passive recreational uses except that Grantor shall not be responsible for snow removal for the East Cove Trail connection.
8. Indemnification. Grantee agrees to indemnify and hold harmless Grantor, its successors and assigns, from and against any loss, claim, damage, liability, expense or damage (including reasonable attorney fees) resulting from the exercise of rights granted in this Easement. Liability under this paragraph shall not apply personally to any director, officer, trustee, member or employee of Grantee or to any assets of Grantee and shall apply solely to Grantee's rights to insurance proceeds for and against any of the foregoing. Grantee agrees to provide primary insurance coverage for construction, maintenance, repair, use and replacement of the trail and associated improvements, which insurance shall name Grantor as an additional insured. This indemnification and hold harmless agreement shall survive any termination of this Easement but shall apply solely to loss, claim, damage, liability, expense or damage arising out of acts or omissions occurring prior to the termination of this Easement.
9. Governing Law. This Easement shall be governed by the laws of the State of Maine. This Easement is intended to be a trail easement as defined under 33 M.R.S.A. § 1581, et seq., Grantor, by its delivery of this Easement, and Grantee, by its acceptance hereof, acknowledge and agree that this Easement is being granted to Grantee without charge for the purpose of recreational activities by the general public pursuant to and in accordance with 14 M.R.S.A. § 159-A and that Grantor shall have the benefit of the terms and provisions hereof.

10. Amendment. No amendment to this Easement shall be effective unless it is in writing and signed by both parties and duly recorded in the Cumberland County Registry of Deeds.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their officers, thereunto duly authorized, as of the date first set forth above.

Redfern Munjoy, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Jonathan Culley, Manager

PORTLAND TRAILS

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its: President

City of Portland

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

\_\_\_\_\_, 2011

Then personally appeared the above-named Jonathan Culley, Manager of Redfern Munjoy, and acknowledged the foregoing instrument to be his free act and deed, in his said capacity.

Before me,

\_\_\_\_\_  
Attorney at Law/Notary Public

\_\_\_\_\_  
Printed Name of Attorney/Notary

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

\_\_\_\_\_, 2011

Then personally appeared the above-named \_\_\_\_\_, President of Portland Trails and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

\_\_\_\_\_  
Attorney at Law/Notary Public

\_\_\_\_\_  
Printed Name of Attorney/Notary

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

\_\_\_\_\_, 2011

Then personally appeared the above-named \_\_\_\_\_, \_\_\_\_\_ of the City of Portland and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

\_\_\_\_\_  
Attorney at Law/Notary Public

\_\_\_\_\_  
Printed Name of Attorney/Notary