

**23 JUNE 2012 VERSION**  
**Wastewater Disposal System**  
**Maintenance Agreement**

This Agreement is made as of \_\_\_\_\_, 20\_\_ by the property owners (see attached list) hereto and their successors and assigns with respect to real estate located on Cliff Island in the City of Portland, Cumberland County, Maine.

1. Property. This Agreement shall apply to each parcel of real property improved by a residential dwelling unit served by plumbing facilities (those parcels being the “Lots” and each such parcel a “Lot”) held by the Owners identified in **Exhibit A** located on Cliff Island in the City of Portland, Maine. For the purposes of this Agreement and the accompanying By-Laws of the Association (defined below), the number of Lots held by an Owner shall be determined for the purposes of the allocation of responsibilities and votes on the basis of distinctive and dividable properties.
2. Owner. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot who has signed this Agreement, and the heirs, successors, assigns and personal representatives of said Owners, but, notwithstanding any applicable theory of mortgage law, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title by foreclosure or any proceeding in lieu of foreclosure.
3. System. The purpose of this Agreement is to provide for the maintenance and upkeep of the wastewater disposal system which services the Lots for the use and benefit of all Owners, and shall be binding upon all Owners. The Owners undersigned do hereby grant to and among each other and to the Association (as that term is defined below) such reasonable rights and easements as are necessary for the location, installation and maintenance of the System as are shown on the Plan attached here as **Exhibit B**.
4. Association. Stevan C. Little, Sr. has caused to be incorporated under Maine law a nonprofit corporation, the Cliff Island Septic System Association (the “Association”), for purposes of complying with the requirements of this Agreement. The Association shall own and maintain the infrastructure (including but not limited to pipes, pumps, tanks, reservoirs, and other items) that comprise the System, and the Owners do hereby convey such infrastructure as is now in place or inventory to the Association.
5. Member. Every Owner shall be a Member of the Association. When more than one person or entity holds an interest in any Lot, all such persons or entities shall be Members. A person or entity who holds a fee or undivided fee interest merely as security for the performance of an obligation, however, shall not be a Member.

6. Voting. All Members of the Association shall be voting Members and the Association shall have one (1) class of voting membership. Each Lot shall represent one (1) indivisible vote. When more than one Member holds an ownership interest in a Lot, the vote for that Lot shall be exercised as such Members among themselves may determine by majority vote. In no event, however, shall the voting rights for a Lot be divided, nor shall more than one (1) vote be cast with respect to any one Lot. If Members who are Owners of a Lot are unable to agree in any instance as to how their vote shall be cast, in any instance, then the vote shall not be counted.
  
7. Expenses. Each Owner shall be assessed, and shall timely pay to the Association Treasurer, a sum equal to the system maintenance and upkeep expenses for the ensuing year multiplied by a fraction of which the numerator shall be the number of Lots owned by the Owner and the denominator shall be the total number of the Lots. The Association Board shall determine the yearly budget within its ordinary course of business, and shall distribute the proposed budget to Owners. The Budget shall include a reconciliation of amounts collected and amounts expended for the prior year's budget. Wastewater disposal system maintenance and upkeep shall be limited to that required to repair and perform ordinary service unless otherwise agreed by a 2/3 vote of all Owners, but shall include the cost of maintaining the Association as a nonprofit corporation in good standing under the laws of Maine, the cost of enforcing any provision of this Agreement and other costs and expenses necessary and proper for the effective and efficient functioning of the Association. With the exception of emergency situations as determined by the Executive Board, all maintenance and upkeep will be by competitive bid unless a non-competitive price is accepted by proper vote taken under the rules of the association, at a meeting duly called for the purpose of voting on the budget of the Association. The application of this provision to a particular Lot and/or Owner may be waived, deferred, or modified (and the yearly budget correspondingly adjusted) for good cause by majority vote of the Association Board. In the case of a deferral or other modification, the Board may, within its discretion, subject an Individual Owner to a later "make-up" or supplemental assessment to account for such deferral or modification.
  
8. Lien. Each Owner, by signing this Agreement, does covenant and agree to pay to the Association, within sixty (60) days after the date of notice of an assessment, all assessments made by the Association. Each assessment, together with interest in amounts or at rates specified by the Association and together with costs of collection, shall be a lien and charge upon the Lot against which each such assessment is made which lien shall continue until the assessment is paid and shall be the personal obligation of the Owner. The personal obligation of the Owner to pay such assessments, however, shall remain the personal obligation of the person who was the Owner when the assessment was first due and shall not pass to successors in title unless expressly assumed by such successors.
  
9. Enforcement. The Association may bring a civil action against the Owner personally obligated to pay an assessment in order to enforce payment of the delinquent assessment

or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment due all costs of collection. In the event a judgment is obtained, such judgment shall include interest on the assessment, together with all the Association's attorney's fees and expenses and costs of the action. Repeat payment problems or unpaid and delinquent liens may, within the Association Board's discretion, become subject to a vote of termination of rights as to a Lot and/or Owner, in which case the Board may take such further action against the Lot and/or Owner as the Board shall deem necessary within its discretion, including but not limited to injunctive relief in court and/or disconnection of the subject Lot(s) from the shared System. The costs of disconnection shall be subject to a further lien against the Lot and shall be the personal liability of the affected Owner, and may be enforced and collected in the same manner as an assessment against the Lot.

10. Subordination. The lien of the assessments provided for shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Lots. Such subordination, however, shall apply only to the assessments which have become due and payable prior to a sale or transfer of a Lot pursuant to any allowable method of foreclosure, or any other proceeding in lieu of foreclosure. Upon request by an Owner of a mortgagee of a Lot, the Association shall issue such certificates as are necessary to indicate the status of the assessments. Such sale or transfer shall not discharge the lien of the Association of any assessment thereafter becoming due after the date of any such sale or transfer. The lien of the assessments also shall be subordinate to all utility easements which may be placed upon any Lot.
11. Severability. Invalidation of any one provision of this Agreement by competent authority shall in no way affect any other provision, which shall remain in full force and effect.
12. Amendment and Termination. This Agreement may be amended or terminated by a written instrument executed in recordable form and signed by Members entitled to cast at least 75% of the votes allocated to the Lots. Subject to the capacity of the System as determined by the Board within its sole discretion (in consultation with a consultant of its choosing if necessary), Additional Owners and Lots may be added to this Agreement by duly signed Amendment if signed by the new Owner and approved by a majority vote of the Association officers impanelled at the time of the proposed addition (and such Amendment shall be effective if it bears the signature of the majority of the Board). The expenses of initial hooking in to the System shall be borne entirely by the new Lot Owner. The addition of Owners and Lots shall result in a pro-rata reapportionment of the System expenses and the adjustment of the yearly budget as provided above.

INWITNESS WHEREOF, the undersigned have executed the Agreement as of the date first above written:

WITNESS

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF MAINE  
COUNTY OF \_\_\_\_\_, ss.

The foregoing Wastewater Disposal System Maintenance Agreement was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Notary Public of Maine  
My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)