

TRAIL EASEMENT (STANDARD FORMAT MVLB)

AGREEMENT made this ___th day of _____, 20___, by and between David A. Damroth with an address of 27 Oyster Lane, P.O. Box 295, Chilmark, MA 02535 (hereinafter, together with their successors and assigns collectively, "Grantor") and the Martha's Vineyard Land Bank Commission, a public body corporate having a principal place of business at 167 Main Street, Edgartown, Massachusetts 02539 (the "Grantee").

WHEREAS, the Grantor wishes to create a trail on certain parcels of land owned by the Grantor located on Oyster Lane in Chilmark, Massachusetts shown as lots 5A and 5B on the [title of plan recorded] (the Plan), recorded in the Dukes County Registry of Deeds as Plan File No. XX, Page YYY and title recorded in the Dukes County Registry of Deeds in Book 949, Page 627 (the "Premises"), and the Grantee agrees to manage said trail; and

WHEREAS, the parties have agreed to the benefit of such a trail, on its approximate location (see Exhibit "A", attached hereto), and on the manner in which the trail shall be administered;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(1.) The Grantor hereby grants to the Grantee for the benefit of the Grantee, with quit claim covenants, a perpetual right and easement over, under and across a four (4) foot wide strip of land along the east and south perimeter of the Premises that are portions of the Magee's Path and Old Field's Path identified on Exhibit "A" (the "Trail Easement").

Such right and easement shall be utilized for the sole and exclusive purpose of providing pedestrian, equestrian and non-motorized bicycle access to the Grantee, its guests and invitees, over, under and across a trail (the "Trail") to be established in the Trail Easement to be used for the purpose of passive recreation, nature study and scenic enjoyment. The Trail shall be created, maintained and controlled by or on behalf of the Grantee in accordance with the provisions set forth herein.

(2.) The Grantee shall have the right to remove such trees, brush and obstructions from the Trail Easement as may be reasonably required for the construction of the Trail and the right to mark the Trail with markers in order to guide users along its course.

The Grantee shall also have the right to seek such permits, in the name of the Grantor, as may be required for the construction and maintenance of the Trail.

(3.) Once the Trail is created, the Grantee shall have the right, within the Trail Easement, to cut, trim, clear and remove outgrowths of brush, other vegetation and any other obstructions, to the extent reasonably necessary to facilitate the uses intended hereby.

Notwithstanding the above, the Grantee, its agents, employees or representatives may use such power equipment and/or motorized vehicles as may be necessary for the construction and maintenance of the Trail.

(4.) The parties agree that no improvements other than the Trail shall be made in the Trail Easement.

(5.) All expenses associated with or arising out of the construction of the Trail, or its maintenance or improvement, shall be borne solely by or on behalf of the Grantee. The Grantor shall have no responsibility or obligation to maintain or repair the Trail.

(6.) The easement hereby conveyed does not grant to the Grantee or to the public or to any private person any rights in, under or across any portion of the Premises other than the Trail Easement. The Grantee agrees to erect fences, plant vegetation or take whatever measures it deems reasonably necessary or appropriate to protect the Grantor's privacy, subject to the prior written consent of the Grantor.

(7.) The parties agree that no improvements to create the Trail shall be undertaken, nor shall the Trail Easement be used by the Grantee, its guests or invitees, until similar public trail access is secured from adjacent landowners and others in the environs to form a continuous path that can be accessed by the public from either end. Such access does not necessarily have to be granted to the land bank nor be in the form of an easement.

(8.) Once Grantee is able to use the Trail Easement per the stipulations of provision (9.) above, the Grantee agrees to defend, indemnify and save the Grantor harmless from any and all liability, loss, injury, claim or damage to or of any persons or property while on the Premises, unless caused by the fault or negligence of the Grantor.

(9.) The foregoing constitutes the complete agreement and understanding between the parties hereto with respect to the Trail.