

EXHIBIT A

INDENTURE

This INDENTURE is made by and among the **FALMOUTH CONSERVATION TRUST**, a Maine nonprofit corporation with a mailing address of P.O. Box 6172, Falmouth, Maine 04105 (hereinafter the “**Trust**”), **MICHELLE M. DANIELS**, of Falmouth, Maine whose mailing address is 15 Sherwood Drive, Falmouth, Maine 04105 (hereinafter “**Daniels**”), and the **TOWN OF FALMOUTH**, a Maine municipal corporation having a mailing address of 271 Falmouth Road, Falmouth, Maine 04105 (hereinafter the “**Town**”).

Recitals:

WHEREAS, Daniels owns certain real estate off Sherwood Drive in Falmouth, Maine described in deed from Dudley C. Merritt, Jr. and Marylou H. Merritt (hereinafter the “**Merritts**”) dated January 26, 1996 and recorded in the Cumberland County Registry of Deeds (hereinafter the “**Registry**”) at Book 12510, Page 319 (hereinafter the “**Daniels Parcel**”); and

WHEREAS, the Daniels Parcel was conveyed subject to a fifty foot (50’) wide easement and right of way for vehicular passage, utilities and ingress and egress over and across the Daniels Parcel (hereinafter the “**50’ Wide ROW**”) for the benefit of other property of the Merritts southerly of the Daniels Parcel; and

WHEREAS, the Town subsequently purchased property of the Merritts southerly of the Daniels Parcel, which property is benefited by the 50’ Wide ROW under deed from Winn Road, LLC dated January 10, 2003 and recorded in the Registry at Book 18691, Page 68; and

WHEREAS, the Town conveyed the property it purchased from Winn Road, LLC to the Trust by Release Deed dated October 25, 2006 and recorded in the Registry at Book 24505, Page 43, including the appurtenant 50’ Wide ROW crossing the Daniels Parcel; and

WHEREAS, the Trust conveyed a Conservation Easement dated October 26, 2006 and recorded in said Registry at Book 24505, Page 50 to the Town encumbering the land southerly of the Daniels Parcel and the appurtenant 50’ Wide ROW crossing the Daniels Parcel; and

WHEREAS, the parties hereto wish to terminate the 50’ Wide ROW and establish a new ten foot (10’) wide easement and right of way for pedestrian travel along the northerly, northwesterly and southwesterly boundaries of the Daniels Parcel (hereinafter the “**10’ Wide Trail Easement**”) to be appurtenant to the land conveyed to the Trust by the Town and encumbered by the Conservation Easement.

Agreements:

NOW THEREFORE, in consideration of the mutual covenants herein contained and \$1.00 and other valuable consideration, the parties agree as follows:

1. Release of 50' Wide ROW by the Town to the Trust: The Town hereby releases to the Trust all right, title and interest it has in and to the 50' Wide ROW by virtue of the Conservation Easement from the Trust dated October 26, 2006 and recorded in said Registry at Book 24505, Page 50. In all other respects, the Conservation Easement remains unchanged and in full force and effect.

2. Release of 50' Wide ROW by the Trust to Daniels: The Trust hereby releases to Daniels all right, title and interest it has in and to the 50' Wide ROW by virtue of the Release Deed from the Town dated October 25, 2006 and recorded in said Registry at Book 24505, Page 43.

3. Conveyance of 10' Wide Trail Easement from Daniels to the Trust: Daniels hereby grants to the Trust, to be appurtenant to the property it acquired under the aforesaid Release Deed from the Town dated October 25, 2006 and recorded in the Registry at Book 24505, Page 43, an easement and right of way, for all purposes of pedestrian ingress and egress, over and across the following described strip of land on the Daniels Parcel, having and maintaining a width of ten feet (10') throughout and having its northerly, northwesterly, southwesterly and southerly boundaries more particularly described and defined as follows:

Beginning at a point at the northeasterly-most corner of the Daniels Parcel;

Thence running N 86° 10' 13" W by and along land formerly of Dudley C. Merritt, Jr. and Marylou H. Merritt a distance of Three Hundred Five and Ninety-Three Hundredths feet (305.93'), more or less, to a point at the corner of a stonewall and land now or formerly of Jenkins and Blake;

Thence turning and running S 55° 09' 50" W by and along said land now or formerly of Jenkins and Blake and the remains of a stonewall a distance of Eighty and Sixty-Three Hundredths feet (80.63') to a point at the intersection of the remains of a wire fence with the end of the stone wall and the easterly sideline of land now or formerly of one Skillin;

Thence turning and running S 33° 04' 00" E by and along said land now or formerly of Skillin and the remains of a wire fence a distance of One Hundred Two and Sixty Hundredths feet (102.60') to a point;

Thence running S 34° 48' 30" E by and along said land now or formerly of Skillin and the remains of a wire fence a distance of Two Hundred Forty and Ninety-Six Hundredths feet (240.96') to a point at land of the Trust;

Thence turning and running N 85° 07' 00" E by and along said land of the Trust a distance of Ten (10) feet, more or less, to a point;

Meaning and intending to convey an easement and right of way ten feet (10') in width, for all purposes of pedestrian travel, along the northerly, northwesterly and southwesterly sidelines of the Daniels Parcel. The right and easement conveyed in this Section 3 includes the right of the Trust to allow the public to use and enjoy the 10' Wide Trail Easement subject to the covenants and agreements contained herein.

The herein conveyed 10' Wide Trail Easement is conveyed subject to and with the benefit of the following covenants and agreements:

(a) The Trust will clearly mark the 10' Wide Trail at the borders with signs, blazing of trees or otherwise for clear identification by the public.

(b) Use of the 10' Wide Trail by the public shall be subject to the following restrictions: (i) the trail shall be used for pedestrian travel only, including without limitation non-motorized bicycles, and no motorized vehicles will be permitted thereon; (ii) pedestrians and bicyclists must stay within the limits of the 10' Wide Trail; (iii) parking for the 10' Wide Trail and Pleasant Hill Woods is not permitted within the easement area; (iv) only leashed dogs or dogs obedient by voice command shall be permitted on the 10' Wide Trail; (v) public use of the 10' Wide Trail is limited to daylight hours; and (vi) no fires shall be permitted on the 10' Wide Trail. The Trust will install signage at appropriate locations on or near the 10' Wide Trail Easement informing the public of the foregoing use restrictions.

(c) Daniels, her heirs and assigns, shall install and maintain, at their sole cost and expense, an electric dog fence parallel with and fifteen feet (15') from the interior borders of the 10' Wide Trail. Daniels, her heirs and assigns, hereby agree to indemnify and hold the Trust and the Town, their officers, employees, agents, successors and assigns, harmless from and against any and all liability, damage, penalties, actions, suits, claims or judgments arising from the injury to or death of any person, or property damage sustained by anyone (including the cost of defending against any such claims or enforcing this indemnity, and including reasonable attorneys' fees), arising directly or indirectly out of or in connection with any dogs or other household pets of Daniels, her heirs, assigns, guests or invitees, entering onto the 10' Wide Trail Easement. The indemnification and hold harmless obligation of Licensee described in this paragraph is in addition to and not a waiver of the immunities or limitations on damages provided to the Town under the Maine Tort Claims Act.

(d) Daniels, her guests, invitees, heirs and assigns shall have the right to use and enjoy the 10' Wide Trail Easement Area for all purposes which do not interfere with the exercise by the Trust, its successors and assigns, of the rights and easements granted herein, or with the use by the public of the 10' Wide Trail Easement for pedestrian travel.

(e) The Trust, its successors and assigns, shall have the right, at its sole cost and expense, to cut and remove all trees, undergrowth and other obstructions within the 10' Wide Trail Easement area to the extent that the Trust deems necessary to create and maintain the 10' Wide Trail Easement.

(f) In the event the Trust is provided with a replacement easement over land northerly of the Trust's land and in the vicinity of the Daniels Parcel, which replacement easement in the Trust's sole and exclusive determination provides adequate alternative access from the north to the land the Trust owns southerly of the Daniels Parcel, the Trust will consider releasing the Daniels Parcel from the 10' Wide Trail Easement, provided that the Town agrees to release the 10' Wide Trail Easement from the Conservation Easement.

(g) Nothing contained in this Section 3 shall be deemed (i) to give Daniels, her heirs and assigns, the right to terminate or otherwise restrict the use or scope of the herein conveyed 10' Wide Trail Easement, or (ii) to allow Daniels, her heirs and assigns, the right to cease complying with the terms and covenants of this Indenture applicable to her.

4. Conveyance of the 10' Wide Trail Easement from the Trust to the Town: The Trust hereby grants to the Town, to supplement and be included as part of the Conservation Easement from the Trust to the Town dated October 26, 2006 and recorded in said Registry at Book 24505, Page 50, and to be appurtenant to the Protected Property therein described, the 10' Wide Trail easement and right of way, for all purposes of pedestrian ingress and egress, conveyed by Daniels to the Trust herein and more particularly described in Section 3 above, reference to which is made for a more particular description thereof. The herein conveyed 10' Wide Trail Easement shall be subject to the terms of said Conservation Easement to the extent such terms are applicable thereto. In all other respects, the Conservation Easement remains unchanged and in full force and effect.

5. Joinder: Joseph W. Daniels, husband of Michelle M. Daniels, hereby joins in this agreement to release any rights of descent and all other rights he may have in and to the 10' Wide Trail described and conveyed in Section 3 above.

6. Effective Date: This Indenture shall be effective when signed by all parties hereto and recorded in the Cumberland County Registry of Deeds.

7. Successors, Heirs and Assigns: This Indenture shall be binding upon, and inure to the benefit of, the respective parties hereto, their heirs, personal representatives, successors and assigns forever.

**[Remainder of the page left intentionally blank.
Signature and acknowledgment pages follow.]**

IN WITNESS WHEREOF, Michelle M. Daniels and Joseph W. Daniels have executed this instrument this ____ day of _____, 2008.

Witness

Michelle M. Daniels

Witness

Joseph W. Daniels

STATE OF MAINE
COUNTY OF _____, 2008

Personally appeared the above named Michelle M. Daniels and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Notary Public/Attorney at law

Type or Print name

IN WITNESS WHEREOF, the Falmouth Conservation Trust has caused this instrument to be executed and delivered by Steven Gauthier, its President, duly authorized, this ____ day of _____, 2008.

WITNESS

FALMOUTH CONSERVATION TRUST

By: Steven Gauthier
Its: President

State of Maine
County of Cumberland, ss.

_____, 2008

Personally appeared the above-named Steven Gauthier, President of the Falmouth Conservation Trust, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Falmouth Conservation Trust.

Before me,

Notary Public/Attorney at Law

Type or Print name

IN WITNESS WHEREOF, the TOWN OF FALMOUTH has caused this instrument to be executed and delivered by Nathan A. Poore, its Town Manager, duly authorized, as of the ____ day of _____, 2008.

WITNESS:

TOWN OF FALMOUTH

By: Nathan A. Poore
Its: Town Manager

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2008

Then personally appeared the above-named Nathan A. Poore, in his capacity as Town Manager of the Town of Falmouth, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Falmouth.

Before me,

Notary Public/Attorney at Law

Type or Print name