

Management Plan For the Protected Property Tidewater Farms

April 4, 2005

Purpose of the Management Plan

This management plan establishes the provisions for the ownership and management/stewardship of the Protected Property created as part of the Tidewater development as shown as parcel TF-1 on the Master Development Plan for Tidewater ("Protected Property").

Vision for the Protected Property ("Vision")

The natural, historic, scenic, agricultural, open space, ecological and wildlife habitat features and rural character of the Protected Property within Tidewater will be preserved and protected in perpetuity. The Protected Property will be used to foster life-long learning in natural habitats, culture, and the arts, as identified below. The quality of the open space will be maintained through the continuation of responsible conservation practices. Any use of the Protected Property that will significantly impair or interfere with the values expressed herein are prohibited.

Ownership of the Protected Property

The ownership of the Protected Property will be retained by Tidewater LLC. The Protected Property will not be divided, subdivided, partitioned or otherwise conveyed in separate ownership except as provided below. Tidewater LLC will be responsible for payment of the real estate taxes on the Protected Property and compliance with the terms of this Management Plan. Tidewater LLC may enter into leases, easements or other arrangements with bona fide conservation, environmental, educational or governmental organizations with respect to the use and/or management of some or all of the Protected Property

Tidewater LLC will grant a Conservation Easement to the Town of Falmouth. This easement will incorporate the terms and limitations of this Management Plan. The easement will give the Town of Falmouth the right to enforce the terms of the Management Plan.

Responsibility for the Management/Stewardship of the Protected Property

Tidewater LLC will be responsible for the day-to-day management of the Protected Property and for assuring that the Vision for the use and stewardship of the open space is carried out. Tidewater LLC may contract with appropriate entities to provide some or all of the services required under this Management Plan. Tidewater, LLC and or its successors in interest may transfer its management duties and its fee interest to the land subject to the conservation easement to a bona fide 501c(3) with the mutual consent of the Falmouth Town Council, such consent will not be unreasonable withheld. The Vision may be amended by Tidewater LLC as circumstances suggest and with the approval of the Town. Tidewater LLC will establish an Advisory Council ("Tidewater Advisory Council") to review and make recommendations on the efficacy of the implementation of the Management Plan. The Tidewater Advisory Council shall include, without limitation, a representative from the Falmouth Town Council, Tidewater Farms Homeowner's Association and a neighborhood/community representative.

Allowed Use of the Protected Property

Use of the Protected Property will be limited to uses that are consistent with the Vision for the property including on-site agricultural, recreational, arts, cultural, and educational programs and events as follows:

- (1) Arts and cultural events consistent with the Vision including but not limited to concerts, performances, films, public lectures, conferences and symposia, outdoor and indoor exhibitions and installations, and artist residency programs.
- (2) Educational programs and events, including but not limited to workshops, courses, tours, demonstrations, and other educative activities consistent with the Vision.
- (3) Low-intensity agricultural uses (including horticultural, gardening and minimal livestock use) consistent with the property's historic use as a farm, garden, pasture, and orchard including the use of the premise as a demonstration farm as part of a legitimate educational or government program.
- (4) Public low-intensity, non-motorized recreational activities such as walking, bird watching, and cross-country skiing.
- (5) Fundraising events such as hosting weddings, Farmers' Markets, gala receptions, auctions, seasonal festivals, and other reasonably similar initiatives, any of which could entail appropriate and tasteful temporary indoor and outdoor decorations to support activities and programs consistent with the Vision for the property.

Commercial and industrial uses and quarrying or other surface mining activities are prohibited within the Protected Property.

Any existing structures within the Protected Property may be maintained and replaced. New buildings and structures will be limited to those that are consistent with the Vision for the property including (i) fences and boundary markers; (ii) benches, walkways, bridges and small interpretive, educational or directional signs; (iii) structures necessary to accomplish art and cultural programs; (iv) agricultural buildings and structures needed to support a demonstration farm, educational facility or other low-intensity agricultural or educational uses; (v) special event overflow parking areas in the open field area; and (vi) temporary tents or structures for scientific, agricultural, artistic, cultural, and educational events, and for fundraising activities.

Environmental Protection

The environmental quality of the site will be maintained consistent with the Vision for the property and the allowed uses. There will be no filling, dumping, excavation or other alteration made to the surface of the Protected Property unless in accordance with the Master Development Plan for Tidewater approved by the Falmouth Town Council and any subsequent development approvals. The use of herbicides, insecticides, fungicides or other potentially harmful substances will be controlled and limited so as not to have a demonstrable adverse effect on the waters or wildlife habitat associated with the property, and will be allowed only with the prior written consent of Tidewater LLC.

The disposal or storage of rubbish, garbage, debris, abandoned vehicles and equipment or parts hereof, or other unsightly or offensive waste material on the property will not be permitted, except that manure, vegetative, and household food waste and other organic compost materials may be composted, deposited or used on the property, and other waste generated by permitted uses may be stored temporarily in appropriate containment for removal at reasonable intervals, subject to all applicable local, state and federal laws and regulations.

Public Access

Tidewater LLC will refrain from posting the Protected Property against trespass and from taking any action to discourage or prevent the general public from using the property to gain access for fishing and carry in/carry out boat launching, or for daytime, quiet, non-motorized low-impact outdoor recreational uses, such as hiking and nature observation, and other forms of quiet outdoor recreation which have minimal impact on the natural and scenic character of the Protected Property.

Tidewater LLC reserves the right to control, limit, or prohibit by posting and other means, (including the right to establish rules and regulations and to conditionally permit or license) any of the following specific uses of the Protected Property: fires, use of motor vehicles, cross-country ski use, any use that interferes with or is harmful to other members of the public using the Protected Property or to owners and occupants of neighboring lands, and any public use that may have an adverse impact on the conservation values of the property.

Notwithstanding the intent of this Management Plan to provide opportunities for outdoor public recreation and public access to the Protected Property, the public shall have no right or interest in the property and no independent standing as a result of this plan or the allowed public access. Notwithstanding any public use of the Protected Property and any insurance coverage thereof, Tidewater LLC will assume no greater obligation to maintain the Protected Property than due under Maine law, and will claim immunity or limitation of liability to the fullest extent of the law under Title 14 M.R.S.A. § 159-A, or successor provisions thereof, and of any other applicable protections of law or equity.

Enforcement of the Management Plan

This Management Plan requires Tidewater LLC to provide for the periodic monitoring of the use and maintenance of the Protected Property by a third party to ensure that the terms of this Management Plan are being met. The monitoring will occur at least once every two years on an ongoing basis. The party or organization selected by Tidewater LLC to conduct the monitoring will be qualified in land conservation and resource management, will have an established record in land management or the oversight of conservation easements or restrictions, and will be subject to approval by the Town of Falmouth Planning Department. The party conducting the monitoring will prepare a written report summarizing the findings of the monitoring and identifying any issues with compliance with the conservation provisions. A copy of the report will be provided to the Falmouth Planning Department within thirty (30) days of the monitoring. The Conservation Easement with the Town of Falmouth will provide for the enforcement of the conservation provisions by the Town of Falmouth against Tidewater LLC if the reviewer finds that the conservation provisions are not being met and for the ability of the Town to charge Tidewater LLC with the costs of enforcement of the provisions.

Tidewater LLC will establish and fund a Stewardship Account to pay for the periodic monitoring. The Stewardship Account will be held and managed by Tidewater LLC as a separate fund. The amount of this fund will be adequate to assure the required monitoring and will be approved by the Falmouth Town Council as part of the approval of the Master Development Plan. Prior to

release of the approved plan for the first phase of development, Tidewater LLC will provide the Town Planner with evidence that the Stewardship Account has been established and funded.