

**TOWN OF FALMOUTH  
ORDER REGARDING THE CONSERVATION EASEMENT ON  
LAND OWNED BY TIDEWATER LLC**

**WHEREAS**, The Town of Falmouth holds a conservation easement on land owned by Tidewater LLC and located in a project known as Tidewater Farm on Clearwater Drive, and

**WHEREAS**, Tidewater LLC wishes to enter into a long term agreement with the University of Maine for use of a portion of the land held by the easement for purposes of cultivating plants, and

**WHEREAS**, the approval of the Town Council is required by the Conservation Easement to assign rights to third parties, and

**WHEREAS**, the use of the land to be assigned to the University of Maine is permitted, encouraged, and anticipated by the Conservation Easement,

**BE IT HEREBY ORDERED THIS \_\_<sup>th</sup> DAY OF \_\_\_\_\_, 20\_\_ , BY THE FALMOUTH TOWN COUNCIL, FALMOUTH MAINE, IN TOWN COUNCIL ASSEMBLED TO APPROVE THE ATTACHED SERVICE AGREEMENT BETWEEN THE UNIVERSITY OF MAINE AND TIDEWATER LLC**

**SERVICE AGREEMENT**

This Service Agreement is made between Tidewater LLC (“Tidewater”), mailing address 470 Fore Street, Portland, ME 04101 and the University of Maine Cooperative Extension (“Extension”), mailing address 102 Libby Hall, University of Maine, Orono, ME 04469.

Tidewater owns a parcel of land comprising approximately 32 acres, all of which have been protected by a Conservation Easement held by the Town of Falmouth, Maine dated October 14, 2005 and recorded in the Cumberland County Registry of Deeds in Book 23279, Page 235 (the “Protected Property.”) The “Protected Property” is also subject to a Management Plan dated 4/4/05. Twenty-two (22) acres of the Protected Property consist of agricultural fields that were part of the original Tidewater Farm in Falmouth, Maine.

Cooperative Extension’s Cumberland County offices are located at 75 Clearwater Drive, in the Tidewater Village Condominium. A portion of Cooperative Extension’s program requires use of tillable land. The Protected Property is adjacent to Cooperative Extension’s offices, and Tidewater wishes to make a portion of it available to Extension for use in agricultural and horticultural programs.

In contemplation of the relationship to be established, and for good and valuable consideration, the parties agree as follows:

1. **Agreement.** Extension shall be permitted to cultivate three (3) acres of agricultural land within the portion of the Protected Property cultivated as agricultural fields. The three acres and access thereto (the "Premises") are depicted in Exhibit A.

If mutually agreeable to the parties, the location of the three acres may be rotated within the 22 acres of agricultural fields from time to time.

2. **Use of Premises.** Use of the Premises shall be for agricultural and horticultural educational programs, including master gardener programs, in a manner that is consistent with the terms of the Conservation Easement and Management Plan dated 4/4/05

Some permanent installations in support of Extension's agricultural and horticultural programs (trellises) may be placed on the Premises, so long as they are consistent with Town zoning ordinance requirements.

3. **Term.** The term of this Agreement shall commence on May 1, 2011 and end on April 30, 2036 with automatic renewals for periods of twenty-five years each. Provided, however, that unless earlier terminated for cause, the term of this agreement (as it applies both to base term and renewals) shall be coextensive with Cooperative Extension's occupancy of one or more units in the Tidewater Village Condominium. This Agreement shall terminate automatically upon termination of Cooperative Extension's occupancy in the Tidewater Village Condominium.

4. **Condition of Premises and Repairs; Surrender.** Tidewater represents that it has conducted an environmental assessment of the Premises and that they are free of hazardous materials.

5. **Quiet Enjoyment.** Extension and its invitees and guests shall be entitled to the beneficial use and peaceful enjoyment of the Premises for the term described in Section 3.

6. **Termination.** In the event of a material violation of the terms of this agreement by either party, and upon failure of that party to bring itself into compliance with the terms of this agreement upon 30 days notice of the violation by the other party, such other party shall have the right to terminate this agreement upon a further 30 days notice.

7. **Waiver.** The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach, either of the same provision or otherwise.

8. **Binding on Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of Tidewater and Extension.

9. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral and written, relating hereto. Any amendment hereof must be in writing and signed by both parties.

10. **Notice.** Any notice to either party must be in writing signed by the party giving it, and shall be served either personally or by registered or certified mail addressed as follows:

To Extension:

John Rebar, Executive Director  
Cooperative Extension  
University of Maine  
Libby Hall  
Orono, ME 04469-5722

To Tidewater LLC:

Nathan Bateman  
Bateman Partners  
470 Fore Street  
Portland, ME 0410

7. **Tidewater Covenants.** Tidewater covenants and warrants that it has the full authority and right to allow Extension to use the Premises, subject to the Conservation Easement and Management Plan for the "Protected Property"

EXECUTED this \_\_\_ day of May 2011.

University of Maine System  
By: The University of Maine

University of Maine  
By: Cooperative Extension

\_\_\_\_\_  
By: Janet Waldron

\_\_\_\_\_  
By: John Rebar

Tidewater LLC

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

Seen and Agreed:  
Town of Falmouth

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

Duly Authorized

Seen and Agreed:

Tidewater Conservation Foundation

Property Manager for the Protected Property

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By:

Its:

Duly Authorized