

TRAIL EASEMENT AGREEMENT

AGREEMENT made this 8th day of December, 2011, by and among **RICHARD COLEMAN, of 101 Plaza Real South #824 Boca Raton, Fl. 33432**, being the owner of a certain parcel of land situated in Chilmark, Dukess County, Massachusetts as more particularly described on Exhibit "A" attached hereto and made a part hereof (together with her heirs, successors and assigns, the "Grantor") and the **TOWN OF CHILMARK, with a mailing address of _____** (the "Grantee").

WHEREAS, the parties have agreed to the benefit of creating a trail, that such trail will be located in the approximate location shown on the sketch plan attached hereto as Exhibit 'B', 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, with quitclaim covenants, a perpetual right and easement over and across a five (5) foot wide strip of land located on Grantor's property in the area denoted on Exhibit "B" by dotted lines and identified as "Trail Easement" for the benefit of the Grantee. Grantee hereby assumes full and complete care, custody and control of the Easement Area.

Such right and easement shall be utilized between sunrise and sunset only for the sole and exclusive purpose of providing pedestrian and non-motorized bicycle access to the Grantee, its guests and invitees, over, under and across a trail to be established in the Easement Area (the "Trail") to be used solely 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 Trail as constructed shall be no greater than four (4) feet in width (except as and to the extent required by the American with Disabilities Act and unless otherwise authorized by the Grantor) and shall be constructed of natural material.
3. The Grantee shall have the right to remove such trees (any wood shall be the property of Grantor at Grantee's election), brush and obstructions from the Easement Area 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.

4. The Grantee shall also have the right to seek such permits, in the name of Grantor, as may be required for the construction and maintenance of the Trail, provided a copy of any application for any permit or approval shall be submitted to Grantor at least thirty (30) days prior to submission to any public body.
5. Once the Trail is created, the Grantee shall have the right, within the Easement Area, to cut, trim, clear and remove outgrowths of brush, other vegetation and any 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, so long as the same does not unreasonably interfere with Grantor's operations on its remaining land.
6. The precise location of the Easement Area shall be established by the cutting of the Trail and shall consist of the Trail.
7. The parties agree that no improvements other than the Trail shall be made in or to the Easement Area by the Grantee.
8. 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 or liability relating thereto.
9. Grantee agrees that it shall not use the Trail Easement unless and until Grantee has obtained a trail agreement over the property abutting the westerly boundary of the Premises to permit the trail to continue over such abutting property.
10. 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 Grantor's property other than the Easement Area. The Grantee agrees to erect fences, plant vegetation or take whatever measures it deems reasonably necessary or appropriate to protect the privacy of Grantor's property, subject to the prior written consent of the Grantor.
11. Grantee hereby agrees to indemnify, defend and hold harmless Grantor from and against any and all loss, costs, claims or damages arising from the existence of the Trail, its construction or its use by Grantee or any third parties and from any damage to the remainder of Grantor's property arising from users of the Trail entering upon Grantor's property. Grantee shall maintain liability insurance in an amount not less than \$1,000,000.00 per occurrence.

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

EXECUTED as a sealed instrument on the day and date first written.

GRANTEE:

GRANTOR:

TOWN OF CHILMARK

RICHARD COLEMAN

By its Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County, ss

On this _____ day of December, 2011, before me, the undersigned notary public, personally appeared RICHARD COLEMAN, proved to me through satisfactory evidence of identification which were personal knowledge / driver's license / passport / other: _____ (circle one), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

County of Dukes County, ss

On this _____ day of December, 2011, before me, the undersigned notary public, personally appeared _____, _____ and _____ proved to me through satisfactory evidence of identification which were personal knowledge / driver's license / passport / other: _____ (circle one), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

EXHIBIT "A"

The land in Chilmark, County of Dukes County, Massachusetts, more particularly bounded and described as follows:

EXHIBIT "B"

