

ACCESS EASEMENT LIABILITY AGREEMENT

WHEREAS, DIANA F. CHACE of Shoreham, Vermont ("Owner") is the owner of the so-called Sparrow Farm located in East Montpelier, Vermont ("the Farm"); and

WHEREAS, Owner took title to the Farm subject to the terms and conditions of a "Grant of Access Easement" ("Easement") conveyed by the Vermont Land Trust, Inc. ("Trust") to itself, the Vermont Housing and Conservation Board (VHCB) and the Town of East Montpelier ("Town") which Grant permits the establishment and use of a four season, pedestrian, recreational trail across the Farm "the Trail"); and

WHEREAS, Owner has secured a policy of liability insurance which in her judgement provides adequate liability protection to Owner for public use of the Trail with no increase in premium, but Owner wishes to be protected in the event at a future date she is unable to secure liability insurance, or a premium is charged, because of public access to the Trail.

WHEREAS, East Montpelier Trails, Inc. (EMT) is a volunteer organization whose mission is to promote, create and maintain recreational trails throughout East Montpelier, and to coordinate a variety of uses of such trails, including hiking, snowmobiling, horseback riding, and bicycling;

NOW, THEREFORE, Owner, VHCB, the Trust, EMT and the Town contract and agree as follows:

1. Paragraph I(2) of the Easement provides, in part as follows:

"Grantees shall have the right, at Grantees' expense, to construct, manage, use and maintain a trail within the easement area, provided Grantees shall first notify Grantor of the name of the entity or organization that will be responsible for maintenance and management of the trail."

Owner, VHCB, the Town, EMT and the Trust agree that, until further notice to Owner, EMT will serve as the organization responsible for maintenance and management of the trail as provided in paragraph I(2) of the Easement.

2. All signatories to this agreement shall collectively use their best efforts to secure a designation of the trail by the Vermont Agency of Natural Resources as a component of the "Vermont Trail System" as more particularly described in Title 10, V.S.A. Chapter 20. The parties recognize that upon receipt of such designation, Owner will receive the liability protection afforded by 10 V.S.A. §448. The primary responsibility for coordinating this designation effort shall lie with EMT.

3. In the event that, at a future date, Owner either (a) is not able to secure liability insurance for the Farm by virtue of the public's use of the Trail, or (b) Owner is charged a liability insurance premium which includes an expense to provide liability coverage to Owner for public Trail use, and that expense constitutes 25% or more of Owner's total liability insurance premium, then Owner may so notify EMT. Upon receipt of said notice, EMT and Owner shall make every reasonable effort to reach voluntary agreement to resolve the issue of Owner's liability insurance for public use of the trail.

In the event Owner and EMT are unable to reach voluntary agreement, the matter shall be submitted for binding arbitration. The arbitrator's authority shall include the right to determine (a) Whether Owner is unable to secure liability insurance for the Farm by virtue of the public's use of the Trail, or (b) Whether Owner has been charged a liability insurance premium which includes an expense to provide liability coverage to Owner for public Trail use, and that expense constitutes 25% or more of Owner's total liability insurance premium. In the event the arbitrator finds affirmatively with regard to either (a) or (b), then EMT shall either: (1) Close the trail to members of the public; or (2) Pay that portion of Owner's liability insurance premium attributable to the public trail easement which exceeds 25% of the Owner's total liability insurance premium; or (3) Arrange insurance coverage at EMT's expense providing Owner with liability protection for continued public use of the Trail. EMT's policy of insurance shall identify Owner as a named insured. The level of coverage secured by EMT shall be not less than the liability limit maintained by Owner in insuring against the risk of personal injury occurring to Owner's invitees to the Farm, or such other coverage limit as EMT and Owner may mutually agree.

Notwithstanding any contrary provision of the Easement, Owner shall be entitled to terminate access to the Trail during any period that EMT has failed to fulfill the requirements of the preceding paragraph. Further, EMT shall not be obligated to either pay for or obtain liability insurance coverage but may instead elect to close the trail to members of the public.

The arbitrator shall be selected by the parties or by the American Arbitration Association if the parties cannot agree on an arbitrator. The costs of arbitration shall be equally shared, unless the arbitrator determines that either party is being unreasonable or otherwise dilatory, in which case the arbitrator shall assign the arbitrator's costs to the unreasonable party. The decision of the arbitrator shall be binding on the parties. The parties shall select an arbitrator within two weeks of the submission of an issue to arbitration, and every reasonable effort shall be made to complete arbitration of any dispute within thirty (30) days of the selection of an arbitrator.

4. In the event EMT ceases to exist or elects to terminate its maintenance and management of the trail, then the rights and obligations of EMT under this agreement shall reside with the Trust.

5. A copy of this agreement or a memorandum providing notice of the existence of this agreement may be recorded by any party in the East Montpelier Land Records. The benefits and obligations of this Agreement as they apply to Owner shall run with title to the Sparrow Farm, and shall be binding upon and enforceable by successor owners of the Farm. This Agreement shall also be binding on and enforceable by the Town and successor assignees of the Town's interest under the Easement. The terms of this agreement shall be interpreted under the laws of the State of Vermont.

Allan S. Couch
Town of East Montpelier
Dated: 6/14/95

Sanford W. Woodbeck Pres.
East Montpelier Trails, Inc.
Dated: 6/14/95

Diana F. Chace
Diana F. Chace
Dated: 6/15/95

John T. Deely
Vermont Housing and Conservation Board
Dated: 6/15/95

W. A. [Signature]
Vermont Land Trust, Inc.
Dated: 6/15/95

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ACKNOWLEDGEMENT OF ARBITRATION

We understand that paragraph (3) of this instrument contains an agreement to arbitrate. After signing this document we understand that we will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement set forth in paragraph (3), unless it involves a question of constitutional or civil rights. Instead, we agree to submit any such dispute to an impartial arbitrator. We understand that the arbitration provisions of this instrument are limited exclusively to matters set forth in said paragraph (3).

Allan S. Couch
Town of East Montpelier
Dated: 6/14/95

Sanford W. Woodbeck Pres.
East Montpelier Trails, Inc.
Dated: 6/14/95

Diana F. Chace
Diana F. Chace
Dated: 6/15/95

John T. Deely
Vermont Housing and Conservation Board
Dated: 6/15/95

W. A. [Signature]
Vermont Land Trust, Inc.
Dated: 6/15/95

**EAST MONTPELIER TOWN CLERK'S OFFICE
RECEIVED FOR RECORD**

THIS 15th DAY OF June A.D. 19 95
AT 3 O'CLOCK 15 MINUTES P. M AND
RECORDED IN LAND RECORDS, BOOK 55 PAGE 436-7
ATTEST [Signature] TOWN CLERK