

REVOCABLE LICENSE AGREEMENT

LICENSOR: **TOWN OF FALMOUTH**, a Maine municipal corporation
271 Falmouth Road
Falmouth, Maine 04105

LICENSEE: **MATTHEW BENNETT AND KERRY BENNETT**
18 Carroll Street
Falmouth, ME 04105

LICENSEE'S
PROPERTY: The property described in a deed to Licensee dated April 1, 2019 and recorded in the Cumberland County Registry of Deeds in Book 35551, Page 312, as depicted on Town of Falmouth Tax Maps as U02-004 (the "Licensee's Property").

PREMISES: That certain strip of land owned by the Licensor (the "Premises") and lying between the low water mark of Casco Bay and the Licensee's Property, being shown on **Exhibit A**, which is a copy of Sheets 1 through 5 in a set of plans with a project name "Proposed Bank Stabilization, 18 Carroll Street, Falmouth, Maine" prepared by Northeast Civil Solutions for Matthew and Kerry Bennett, 18 Carroll Street, Falmouth, ME, dated October 23, 2019 and revised through January 22, 2020 (collectively, the "Plan").

TERM: The term of this License shall commence on _____, 2020 and shall terminate on _____, 2021 (the "License Term"), unless sooner terminated in accordance with the terms and conditions hereof. In the event of revocation or termination of this License for any reason, Licensee hereby consents to the Licensor's recording of notice of such termination in the Cumberland County Registry of Deeds.

Provided that Licensee is not in default of any covenant, agreement or obligation contained in this License during the License Term or any subsequent Renewal Term, and Licensor has not exercised its right to terminate this License as set forth herein, this License shall automatically renew on _____, 2021 for one (1) year and for successive one (1) year terms (the "Renewal Terms" and each individually a "Renewal Term") upon the same terms and conditions applicable during the License Term as set forth herein. The parties agree that this License creates no interest in land or real estate and in no event shall be deemed an easement or a lease or sublease, but instead creates only a freely revocable license from the Licensor to the Licensee.

LICENSE FEE/

RENEWAL FEE: In consideration of the receipt of this License, Licensee has paid to Licensor a license fee. No additional fee shall be due to Licensor in advance of any Renewal Term.

In consideration of the mutual covenants contained in this License and other valuable consideration paid by Licensee, Licensor does hereby agree to permit Licensee the use of the Premises, upon and subject to the terms and conditions set forth in this License, and subject to all liens, encumbrances, easements, agreements, covenants, restrictions, zoning laws and governmental or any other regulations now or hereafter affecting or governing the Premises.

ARTICLE I. DELIVERY OF PREMISES; LICENSOR’S IMPROVEMENTS. Licensee agrees to accept the rights herein and possession of the Premises “as is” without warranty or representation by Licensor, either express or implied, as to its condition or repair. Without limiting the generality of the foregoing, Licensor makes no representations or warranties as to the adequacy of the Premises for the intended use by Licensee. This License creates no obligation on the part of the Licensor to maintain, improve or alter the Premises in any way.

ARTICLE II. SAFETY. Licensee acknowledges and agrees to exercise this License and use the Premises at Licensee’s own risk and peril. Licensee acknowledges and agrees that Licensee alone is responsible for the safety of Licensee and any guests or invitees of the Licensee on the Premises. Licensee agrees to establish adequate safety procedures when at or using the Premises.

ARTICLE III. GRANT OF LICENSE; USE OF PREMISES. Licensor grants to Licensee a revocable, non-exclusive license to use portions of the Premises for access to Casco Bay, as described herein, and shall have the right to install and maintain the following improvements on the Premises, each as shown on the Plan and in strict accordance with the approvals of the Town of Falmouth Planning Board on January 7, 2020 (the “Planning Board Approvals”), and in accordance with any local, state or federal permitting requirements: (a) granite stairs with a railing and a temporary/seasonal boat dock, with a removable section over the Licensor’s existing sewer line, such dock to be used for launching Licensee’s boats or other watercraft for personal and recreational use only (collectively, the “Steps and Dock”), (b) rip rap and an underground perforated underdrain system and related shoreline stabilization work, subject to, and in accordance with, the Planning Board Approvals (the “Underdrain System”); and (c) the Licensee’s existing stone patio, a portion of which is located on the Premises, being shown as “stone patio” and “40 sq. ft +/- encroachment” on the plan entitled “Plan of Existing Conditions, 18 Carroll Street, Falmouth, Maine” prepared by Titcomb Associates for Atlantic Environmental dated August 2, 2019, a copy of which is attached hereto as **Exhibit B** (the “Existing Patio Encroachment”) (collectively, the Steps and Dock, the Underdrain System, and the Existing Patio Encroachment are hereinafter referred to as the “Site Improvements”). Licensee’s rights hereunder shall include the right to remove leaves, branches and other storm debris from the Existing Patio Encroachment and the Steps and Dock. Licensee agrees that as part of the above-referenced shoreline stabilization work, Licensee shall remove the existing garden and concrete retaining wall located on the Premises, as depicted on **Exhibit B**, and such improvements shall not be replaced. The Licensee shall not use or alter the Premises for any other use or purposes other than as expressly set forth herein and in the Planning Board Approvals. Licensee shall not use or alter the Premises in connection with any commercial activities. Licensee shall be solely responsible for maintaining the Site Improvements in a clean, safe and well-maintained condition.

ARTICLE IV. PUBLIC USE. Nothing in this License shall limit the Licensor's right to use or alter the Premises or the rights of the public to access and cross the Premises, including, without limitation, the right to cross over any improvements installed by the Licensee therein in order to pass through the Premises.

ARTICLE V. REPAIRS; COMPLIANCE WITH LAWS. Licensee shall promptly report any damage to the Premises to Licensor. Licensee shall be responsible for any damage caused by Licensee or Licensee's guests and invitees to the Premises and shall promptly reimburse Licensor for the costs to repair the same. Licensee, and Licensee's guests and invitees, shall comply with all federal, state and municipal laws, ordinances, orders and regulations affecting the Premises.

ARTICLE VI. LICENSEE'S COVENANTS. Licensee covenants and agrees as follows:

(a) To maintain the Premises in a clean, neat and sanitary condition. Licensee shall dispose of its trash off site;

(b) Not to make any use of the Premises other than as expressly set forth herein. Not to make any use of the Premises which is improper, offensive or illegal, nor to permit any act or thing to be done on the Premises which shall constitute a nuisance or which may make void or voidable any insurance on the Premises;

(c) To allow the Licensor access over Licensee's Property at all reasonable times for inspections of the Premises, such access point or points to be approved by the Licensee, Licensee's approval not to be unreasonably withheld, conditioned or delayed; and

(d) To pay all costs and expenses, including reasonable attorneys' fees and costs, incurred by Licensor in enforcing the provisions of this License in the event of any breach or default by Licensee.

ARTICLE VII. ASSIGNMENT. This License is personal to the Licensee and is assignable but only to the owner or owners of the Licensee's Property by the recording of a written assignment, executed by the Licensee and the assignee, in the Cumberland County Registry of Deeds, in such form as shall be reasonably acceptable to the Licensor.

ARTICLE VIII. DEFAULTS BY LICENSEE. If default shall be made by Licensee in the performance or compliance with any of the agreements, terms, covenants or conditions in this License, Licensor, at any time, may give written notice to Licensee specifying such event of default or defaults stating that this License is revoked and is terminated, and thereupon all rights of Licensee under this License shall thereby expire and terminate immediately.

Upon any such revocation or termination of this License, Licensee shall remove such Site Improvements as may be requested by Licensor, within fourteen (14) days of receipt of such notice, quit and peacefully surrender the Premises to Licensor, and Licensor, upon or at any such revocation or termination, may without further notice enter or re-enter the Premises and possess and repossess itself thereof, by summary proceedings or any other process available to Licensor under Maine law, and may dispossess Licensee and remove Licensee and all other persons and property from the Premises without being liable to prosecution therefor, and may have, hold and enjoy the Premises.

Licensee covenants and agrees, in the event of any such revocation or termination of this License, or summary proceedings, to remain liable to Licensor for all charges incurred by Licensor in enforcing or prosecuting the same, including attorneys' fees, interest and penalties therefore, and to further be liable to Licensor for all costs and expenses of returning the Premises to the same condition as existed upon the commencement of the License Term. Any and all rights and remedies which Licensor may have under this License upon any breach shall be in addition to such rights and remedies as Licensor may have at law or in equity.

ARTICLE IX. TERMINATION BY LICENSOR WITHOUT CAUSE. Notwithstanding anything to the contrary contained in this License, during the License Term and any Renewal Term, Licensor may, in its sole discretion and without cause, terminate this License at any time by giving written notice to Licensee of such termination. Thereupon the Licensee shall remove the dock, and any other Site Improvements as may be requested by Licensor, within sixty (60) days of receipt of the notice and quit and peacefully surrender the Premises to Licensor.

ARTICLE X. SEWER LINE WORK. The Licensor retains all rights to use the Premises for its own purposes, including without limitation to maintain, repair, improve, modify, relocate and replace the Licensor's sewer line, which crosses the Premises, and any other improvements now or hereafter located within the Premises by the Licensor. Upon no less than fourteen (14) calendar days' notice from the Licensor, the Licensee shall remove any Site Improvements that interfere, in the Licensor's sole discretion, with the Licensor's use or maintenance of the sewer line. If the Licensee fails to do so within the time prescribed by the Licensor's notice, the Licensor may cause the Site Improvements to be removed at the Licensee's expense. In an emergency situation, the Licensor may remove the Site Improvements without prior notice to the Licensee. In no event shall the Licensor be liable for damage to the Site Improvements resulting from the Licensor's actions hereunder or be required to replace the same.

ARTICLE XI. SHORELINE MAINTENANCE. Except as expressly set forth herein, Licensee may not alter the Premises in any way without prior written consent of the Licensor, including, but not limited to, mowing, pruning, trimming, removal or replacement of vegetation, removal of rocks or stabilization material. Licensor retains the right, in its sole discretion, to maintain and alter slopes on the Premises to address slope stability, including, but not limited to, land, rocks, stabilization materials and outfalls.

ARTICLE XII. WAIVERS. Failure of Licensor to complain of any act or omission on the part of the Licensee, no matter how long the same may continue, shall not be deemed to be a waiver by Licensor of any of its rights hereunder. No waiver by Licensor at any time, express or implied, of any breach of any provision of this License shall be deemed a waiver of a breach of any other provision of this License or a consent to any subsequent breach of the same or any other provision.

ARTICLE XIII. NOTICES. All notices and other communications authorized or required hereunder shall be in writing to the Licensor at Town Hall in Falmouth, Maine, to the attention of the Town Manager, or to Licensee, or successor owners, at the address shown in the Town of Falmouth tax assessing records for the owner of the Licensee's Property, and shall be either delivered in person or sent by certified mail or registered mail, return receipt requested, postage prepaid, or by recognized overnight courier, and any such notice or other communication shall be

deemed to have been given when so delivered or two (2) days after so mailed to the party to whom such notice or other communication shall be addressed.

ARTICLE XIV. INDEMNIFICATION AND HOLD HARMLESS. Licensee covenants and agrees that it will indemnify and hold Licensor, its 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 from any cause whatsoever (including the cost of defending against any such claims or enforcing this indemnity, and including reasonable attorneys' fees and costs), arising directly or indirectly out of or in connection with the use of the Premises by Licensee, its guests and invitees, including any improvements now or hereafter located thereon. The indemnification and hold harmless provisions of this Article shall survive the termination of this License. The indemnification and hold harmless obligation of Licensee described in this paragraph is in addition to and not a waiver of Licensor's immunities or limitations on damages provided to Licensor under the Maine Tort Claims Act or other Maine law.

ARTICLE XV. LICENSOR DEFAULT. Licensee agrees that Licensor shall not be in default of any of its obligations hereunder unless such default shall remain uncured for more than thirty (30) days following Licensor's receipt of written notice from Licensee specifying the nature of such default, or for such longer period as may be reasonably required to correct such default.

ARTICLE XVI. INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this License or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this License, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this License shall be valid and enforced to the fullest extent permitted by law. This License shall be governed by the laws of the State of Maine.

ARTICLE XVII. HEIRS, SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided in this License, the terms and provisions of this License shall be binding upon and inure to the benefit of the Licensor and Licensee and their respective heirs, executors, administrators, and permitted successors and assigns.

ARTICLE XVIII. ENTIRE AGREEMENT. This instrument and the exhibits referenced herein contain the entire and only agreement between the parties with regard to the subject matter hereof, and no oral statements or representations or prior written matter not contained in this instrument shall have any force or effect. This License shall not be modified in any way except by a writing executed by both parties. Licensee agrees and acknowledges that the relationship between the parties hereto is that of Licensor and Licensee only, and that this Agreement does not constitute a lease or otherwise create a landlord and tenant relationship between Licensor and Licensee. Licensee hereby waives the right to claim the protections or provisions of State or Federal law which may from time to time be granted to tenants in a landlord and tenant relationship.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Licensor and Licensee have set, or caused their duly authorized representatives to set, their hands and seals this _____ day of _____, 2020.

LICENSOR:

TOWN OF FALMOUTH

Witness

By: Nathan Poore
Its: Town Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2020

Personally appeared the above-named Nathan Poore, Town Manager for 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

Printed name: _____
My commission expires:

LICENSEE:

Witness

Matthew Bennett

Witness

Kerry Bennett

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2020

Personally appeared the above-named Matthew Bennett and Kerry Bennett and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Notary Public/Attorney at Law

Printed name: _____

My commission expires:

EXHIBIT A

EXHIBIT B