

**THIS IS A NON-CONTRACTUAL
CONVEYANCE PURSUANT TO NEW
HAMPSHIRE RSA 78-B:2 AND IS
EXEMPT FROM THE NEW
HAMPSHIRE REAL ESTATE
TRANSFER TAX.**

CONSERVATION EASEMENT DEED

AMERICAN WHITEWATER, a corporation duly organized and existing under the laws of the State of Missouri, with a principal place of business at 629 West Main Street, Sylva, County of Jackson, State of North Carolina, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code, (hereinafter referred to as the "Grantor", which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors and assigns),

for consideration paid, with WARRANTY covenants, grants in perpetuity to

the **FIVE RIVERS CONSERVATION TRUST**, a corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business and mailing address at 31 Warren Street, City of Concord, County of Merrimack, State of New Hampshire 03301, having been determined by the Internal Revenue Service to be an income tax exempt, publicly supported corporation, contributions to which are deductible for federal income tax purposes pursuant to the United States Internal Revenue Code (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), the Conservation Easement (herein referred to as the "Easement") hereinafter described with respect to a certain parcel (herein referred to as the "Property"), being unimproved land, consisting of approximately 11.4 acres, situated on Western Avenue in the Town of Henniker, County of Merrimack, State of New Hampshire, as shown on a Plan entitled Boundary Survey, Land of Estella E. Presby and Doris G. & V. William Laughlin by SVE Associates, dated 8/20/2013, recorded at the Merrimack County Registry of Deeds herewith

(hereafter “Plan”), and as more particularly bounded and described in Appendix “A” attached hereto and made a part hereof.

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes (herein referred to as the “Purposes”) for the public benefit:

- A. To assure that the Property will be retained forever in its predominantly undeveloped, forested, and open space condition; and
- B. To protect the assemblage of natural riparian resources, including (but not limited to) the floodplain forest, former river channels, and vernal pools that characterize the Property, for the benefit of native plants and wildlife; and
- C. To provide for low-impact, non-commercial outdoor recreational and educational use by the general public on the Property, particularly pedestrian access to the Contoocook River for the launch and take out of small boats; and
- D. To protect approximately 1290 feet of shoreline in a natural condition on the Contoocook River, a designated river in the State Rivers Management and Protection Program, at a stretch on the river known for its high quality, Class III-IV whitewater including the famous Class IV “Freight Train Rapids;” and
- E. To provide for the scenic enjoyment of the Property by the general public, including approximately 902 feet of undeveloped frontage on Western Avenue.

The above Purposes are consistent with the clearly delineated open space conservation goals and/or objectives as stated in the 2002 Master Plan of the Town of Henniker, which states as a community goal, “[t]he Town of Henniker desires to conserve, protect, and preserve its natural resources, including but not limited to, ground and surface waters, agricultural and forest land, and wildlife habitat, in order to preserve the character of the community,” and further, “should seek acquisition, easements, and/or development rights for parcels of land abutting public water bodies” and “provide outdoor recreation activities that are accessible and made available to the public.” They also are consistent with New Hampshire RSA Chapter 79-A:1 which states: “It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state’s citizens, maintaining the character of the state’s landscape, and conserving the land, water, forest, agricultural and wildlife resources.”

These significant conservation features as well as other characteristics are set forth in detail in Baseline Documentation Report on file with the Grantee (hereinafter “Baseline Report”).

All of these purposes are consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

2. USE LIMITATIONS (Subject to the reserved rights specified in Section 3 below)

- A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial, commercial, residential building, agricultural or forestry activities, except as specifically authorized or reserved by this Easement Deed.
- B. The Property shall not be further subdivided or conveyed in any form in separate parcels, except that the lease of any portion of the Property for any use permitted by this Easement shall not violate this provision.
- C. No structure or improvement shall be constructed, placed, or introduced onto the Property except for ancillary structures and improvements which: i) are necessary in the accomplishment of the conservation, habitat management, or noncommercial outdoor recreational or educational uses of the Property, and which may include but are not limited to trails, fences, bridges, culverts, or gates; and ii) are not detrimental to the Purposes of this Easement. Notwithstanding the above, there shall not be constructed, placed, or introduced onto the Property any of the following structures or improvements: seasonal, temporary, or permanent dwelling, residence, cabin, residential driveway, any portion of a septic system, telecommunications and/or wireless communication facility, tower, tennis court, school, swimming pool, athletic field, golf course, storage trailer, or aircraft landing area.
- D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:
 - i. are commonly necessary in the accomplishment of the conservation, habitat management, or noncommercial outdoor recreational or educational uses of the Property; and
 - ii. do not harm state or federally recognized rare, threatened, or endangered species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species and natural communities; and
 - iii. are not detrimental to the Purposes of this Easement.

Prior to commencement of any such activities, the Grantor shall secure all necessary federal, state, local, and other governmental permits and approvals.

- E. No outdoor advertising structures, such as signs and billboards, shall be displayed on the Property except as desirable or necessary in the accomplishment of the conservation or noncommercial outdoor recreational or educational uses of the Property, and provided such structures are not detrimental to the Purposes of this Easement. No sign shall

exceed in size the then current sign regulations in the Town of Henniker zoning ordinance unless grandfathered, and no sign shall be artificially illuminated.

- F. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to and consistent with the provisions of Sections 2.A., C., D., or E., above and provided that such activities on the Property are not detrimental to the Purposes of this Easement. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property.
- G. There shall be no dumping, disposal, injection, burning, or burial on the Property of man-made materials or materials then known to be environmentally hazardous.
- H. No additional rights-of-way, easements of ingress or egress, driveways, roads, or utility lines shall be granted, constructed, developed or maintained into, on, over, under, or across the Property, without the prior written approval of the Grantee, at its sole discretion, except those of record as of the execution of this Easement and those specifically permitted by the terms of this Easement.
- I. The Grantor shall not post to prohibit the public from accessing and using the Property for transitory, low-impact, pedestrian, non-motorized, non-commercial, outdoor recreational purposes, including such handicapped access, motorized or otherwise, as may be required by the Americans with Disabilities Act or successor federal legislation, or for non-vehicular access for the launch and take out of small boats, except as provided for in Section 3.D below, and further excepting that the Grantor shall not be required to keep the Property open to the public for camping or hunting. Notwithstanding the foregoing, nothing shall prevent the use of this Property for river access by any recreational group or individual that charges for their services on, or transportation to the river, provided such group or individual complies with all other provisions of this Easement, including but not limited to Section 3.D below. The Grantee shall be under no duty to supervise said access, use or purpose.

3. RESERVED RIGHTS

Notwithstanding the foregoing, Grantor shall retain the right to make the following uses of the Property:

- A. Construct a memorial to Cliff Eisner at a site and of a size to which Grantor and Grantee mutually agree, such placement to minimize impact on the natural features and recreational uses to which this Property is dedicated.
- B. Construct a kiosk on the Property in order to educate the public as to the Property's history, conservation values, and permitted uses and for orientation and public safety purposes. Such kiosk shall not exceed in size the then current sign regulations in the Town of Henniker zoning ordinance unless grandfathered.

- C. Provide one unpaved, pervious surface parking area situated adjacent to Western Avenue, as shown on the Plan and designed so as to minimize its impact on wetland, floodplain, and scenic values, in particular. Size shall be such as necessary to accommodate no more than 10 vehicles (i.e., light trucks, vans, or cars, but excluding buses). Grantor shall incur no costs for the parking area installation and with no future obligation for its maintenance.
- D. The Grantor reserves the right to post as necessary to temporarily limit public access to and use of portions of the Property during forestry-related management operations and if necessary, and temporarily, to protect nesting habitat and public safety. The Grantor further reserves the right to post against all types of motorized vehicles with the sole exception, as provided at 2.I. above, of motorized equipment used in compliance with the aforesaid Americans with Disabilities Act.
- E. The Grantor reserves the right to conduct limited noncommercial forestry activities on the Property as described below, provided that all such activities shall be undertaken and carried out consistently with the purposes of this Easement. Any timber removal shall comply also with all applicable local, state, and federal laws and regulations and be consistent with generally accepted best management practices for the sites, soils, and terrain of the Property. Subject to the foregoing, such forestry activities as the Grantor may conduct are limited to timber management for wildlife habitat improvement and timber salvage operations in the event of a catastrophic event such as, but not limited to, a fire, flood, insect infestation, wind or ice storm if such catastrophic event poses a potential fire or safety issue or threatens the ecological health of the riparian system.
 - a. Such timber harvest, whether for habitat improvement or salvage purposes, shall be performed in accordance with a written management plan consistent with the purposes and terms of this Easement and prepared by a licensed forester or by other qualified person approved in advance and in writing by the Grantee. The goal and scope of any plan prepared in response to the catastrophic event creating the need for the salvage operation shall be limited to protecting the purposes of this Easement.
 - b. Within 90 days prior to harvest, a licensed forester or other qualified person approved in advance and in writing by the Grantee shall certify in writing to the Grantee that the plan and planned forestry activities are consistent with the purposes and terms of the Easement.
 - c. This right to salvage operations does not preclude the Grantor from removing individual trees deemed a threat to public safety, or removing individual trees for habitat improvement or trail development.

Grantor shall notify the Grantee in writing at least thirty (30) days before exercising any right allowed by this Section “Reserved Rights,” Paragraphs A. through D. above, said notice to include a description of the timing, location, scope, and method of the proposed activity.

4. AFFIRMATIVE RIGHTS OF THE GRANTEE

- A. The Grantee shall have reasonable access to the Property and all its parts for such inspection as is necessary to determine compliance and to enforce this Conservation Easement, to exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by acceptance of this Easement and to maintain boundaries, at the sole discretion of the Grantee.
- B. To facilitate such inspection and to identify the Property as conservation land protected by the Grantee, the Grantee shall have the right to place signs along the Property's boundaries, each of which shall not exceed 24 square inches in size, except that Grantee shall have the right to place one sign up to 900 square inches in size on the Property.
- C. With written approval of the Grantor, the Grantee shall have the right to construct, maintain and replace, at a trail entrance, and all at Grantee's sole expense, no more than one kiosk for purposes of property identification, safety, outdoor recreation, or outdoor education. Such kiosk shall not exceed in size the then current sign regulations in the Town of Henniker zoning ordinance unless grandfathered.

5. SUBSEQUENT TRANSFER

- A. The Grantor agrees that the terms, conditions, restrictions and Purposes of this grant or reference thereto will be inserted by the Grantor in any subsequent deed or other legal instrument by which the Grantor divests either the fee simple title or possessory interest in the Property.
- B. The Grantor agrees to notify the Grantee in writing within ten (10) days of the transfer of title to the Property.

6. TAXES, MAINTENANCE

The Grantee shall be under no obligation to maintain the Property or pay any taxes or assessments thereon.

7. BENEFITS AND BURDENS

The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity. The benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation Purposes of this Easement. Any such assignee or transferee shall have like

power of assignment or transfer.

8. SEPARATE PARCEL

The Property shall in no way be used to satisfy the density, frontage, or setback requirements of any applicable zoning ordinance or subdivision regulation with respect to the development of any other property.

9. RESOLUTION OF DISAGREEMENTS

- A. The Grantor and the Grantee desire that issues arising from time to time concerning the interpretation of the provisions of the Easement, or any use or activity on the Property, will first be addressed through candid and open communication between the parties rather than unnecessarily formal or adversarial action. Therefore, the Grantor and the Grantee agree that if a party becomes concerned whether any proposed use, activity, or failure to take action (which together for the purposes of this Section, “Resolution of Disagreements,” shall be referred to as the “Activity”) complies with the provisions of this Easement, wherever reasonably possible, the concerned party shall notify the other party of the perceived or potential problem, and the parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.
- B. If informal dialogue does not resolve a disagreement regarding the Activity, and if the Grantor agrees not to proceed with the Activity pending resolution of the disagreement, either party may refer the dispute to mediation by written notice to the other. Within ten (10) days of the receipt of such notice, the parties shall agree on a single impartial mediator. Mediation shall be conducted in Concord, New Hampshire, or other such location as the parties may agree. Each party shall pay its own attorneys’ fees and the costs of mediation shall be split equally between the parties.
- C. If the parties are unable to agree on a mediator, if the parties shall agree to bypass mediation, if any party refuses to participate in or continue with mediation, or if the parties are unable to resolve the disagreement by mediation, either party may refer the disagreement to binding arbitration by request made in writing and in accordance with New Hampshire RSA 542 as may be amended from time to time. Unless the parties agree upon a single arbitrator, the Grantor and Grantee shall each choose an arbitrator within twenty (20) days of the delivery of written notice from either party referring the matter to arbitration. The arbitrators so chosen shall in turn choose a third arbitrator within twenty (20) days of the selection of the second arbitrator. The arbitrator(s) so chosen shall forthwith set as early a hearing date as is practicable, which they may postpone only for good cause shown. The arbitration hearing shall be conducted in Concord, New Hampshire, or such other location as the parties shall agree. The arbitrator’s decision, or the decision by two of the three arbitrators, made as soon as practicable after submission of the matter, shall be binding upon the parties and shall be enforceable as part of this Easement. Each party shall pay its own legal fees and other associated costs, and the costs of arbitration shall be split equally between the parties.

- D. If the parties do not agree to resolve the dispute by arbitration, then either party may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation by permanent injunction, and to require the restoration of the Property to its condition prior to the breach and for such damages as appropriate.
- E. Notwithstanding the availability of mediation and arbitration to address disagreements concerning the compliance of any Activity with the provisions of this Easement, if the Grantee believes that some use, activity, or failure to take action of the Grantor or a third party is causing irreparable harm or damage to the Property, or creates an imminent threat of same, the Grantee may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any New Hampshire court of competent jurisdiction to cause the cessation of any such damage or harm or threat of same.

10. BREACH OF EASEMENT – GRANTEE’S REMEDIES

- A. If the Grantee determines that a violation or breach of this Easement has occurred (which together shall hereinafter be referred to as “breach”), the Grantee shall notify the Grantor in writing of such breach and demand corrective action to cure the breach and, where the breach involves damage, disturbance, or harm (hereinafter referred to as “damage”) to the Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Property so damaged to its prior condition in accordance with a plan approved by the Grantee
- B. The Grantor shall, within thirty (30) days after receipt of such notice or after otherwise learning of such breach, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage to the Property. The Grantor shall promptly notify the Grantee of its actions taken hereunder.
- C. If the Grantor fails to perform its obligations under the immediately preceding paragraph B. above, or fails to continue diligently to cure such breach until finally cured, the Grantee may undertake any actions, in the Grantor’s name, that are reasonably necessary to repair any damage or to cure such breach, including an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such damage.
- D. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to any of the conservation values of the Property, the Grantee may pursue its remedies under this Section “Breach of Easement...” without prior notice to the Grantor or without waiting for the period provided for cure to expire.
- E. The Grantee shall be entitled to recover damages from the party directly or primarily responsible for the breach or for damage to any conservation values protected hereby, including, but not limited to, damages for the loss of scenic, aesthetic, recreational,

educational, or environmental values of the Property. Without limiting the Grantor's liability therefor, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

- F. The Grantee's rights under this Section "Breach of Easement..." are in addition to the provisions of the Section, "Resolution of Disagreements," which section shall also apply to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Grantee's rights hereunder.
- G. The Grantor and the Grantee acknowledge and agree that should the Grantee determine, in its sole discretion, that any of the conservation values protected by this Easement are in immediate danger of irreparable damage, the Grantee may seek the injunctive relief described in the third paragraph of this Section, "Breach of Easement...," both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this Section "Breach of Easement ...," shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- H. Provided that the Grantor is directly or primarily responsible for the breach, and if a court so orders, all reasonable costs incurred by the Grantee in enforcing the terms of this Easement against the Grantor, including, without limitation, costs and expenses of suit, reasonable attorneys' fees, staff and consultant costs, and any costs of restoration necessitated by the Grantor's breach of this Easement shall be borne by the Grantor, and provided further, however, that if the Grantor ultimately prevails in an enforcement action each party shall bear its own costs. Notwithstanding the above, if Grantee initiates litigation against the Grantor to enforce this Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Grantee to reimburse the Grantor's reasonable costs and reasonable attorney's fees in defending the action.
- I. Forbearance by the Grantee to exercise its rights under this Easement in the event of any breach of any term thereof by the Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's rights hereunder. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver. The Grantor hereby waives any defense of laches or estoppel.
- J. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any damage to, or change in, the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant damage to the Property resulting from such

causes. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal and/or equitable remedies, as set forth in this Section “Breach of Easement...,” against any third party responsible for any actions inconsistent with the provisions of this Easement. Further, prior to either party taking any such separate action, the Grantee and Grantor shall first discuss with one another opportunities for taking collective action.

12. NOTICES

All notices, requests and other communications, required to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested, or by prepaid overnight delivery service providing a signed receipt for delivery, to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

13. SEVERABILITY

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

14. HOLD HARMLESS

The Grantor agrees to release, hold harmless, defend and indemnify the Grantee from any and all liabilities including, but not limited to, injuries, losses, damages, judgments, costs, expenses and fees which the Grantee may suffer or incur as a result of, arising out of, or connected with: (i) the activities of the Grantor or any other person on the Property, other than those caused by the negligent acts or acts of misconduct by the Grantee; or (ii) violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation or requirement by any person, other than the Grantee, in any way affecting, involving, or relating to the Property. The Grantee agrees to release, hold harmless, defend and indemnify the Grantor from all such liabilities which the Grantor may suffer or incur as a result of, arising out of or connected with the negligent acts or acts of misconduct of the Grantee on the Property.

15. CONDEMNATION/EXTINGUISHMENT

A. **Condemnation.** Whenever all or part of the Property is taken by exercise of the power of eminent domain by public, corporate, or other authority so as to abrogate in whole or in part the Easement conveyed hereby, or whenever all or a part of the Property is lawfully sold without the restrictions imposed hereunder in lieu of condemnation or exercise of eminent domain, the Grantor and the Grantee shall thereupon act jointly to recover the

full damages resulting from such taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.

- B. Extinguishment. In the event circumstances arise in the future such as to render the purpose of this Easement impossible or impracticable to accomplish, this Easement may be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction and in no other manner. After the satisfaction of prior claims, the proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such judicial termination or extinguishment shall be distributed between the Grantor and the Grantee in accordance with Section C. below. In making this grant of Easement, the Grantor has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by the Grantor pursuant to this Easement. It is the specific and considered intent of both the Grantor and the Grantee that any such change in economic conditions shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to this Section.
- C. Valuation. The balance of the land damages recovered from such taking lawful sale in lieu of condemnation or exercise of eminent domain, or from any judicial extinguishment of this Easement, shall be divided between the Grantor and the Grantee in proportion to the fair market value, at the time of condemnation or extinguishment, of their respective interests in that part of the Property condemned. The values of the Grantor's and Grantee's interests shall be determined by an appraisal prepared by a qualified appraiser at the time of condemnation or extinguishment.
- D. The Grantee shall use its share of the proceeds resulting from condemnation or extinguishment in a manner consistent with and in furtherance of one or more of the conservation Purposes set forth herein.

16. ADDITIONAL EASEMENT

Should the Grantor determine that the expressed Purposes of this Easement could better be effectuated by the conveyance of an additional easement, the Grantor may execute an additional instrument to that effect, provided that: the conservation Purposes of this Easement are not diminished thereby; a public agency or qualified organization described in the Section "Benefits and Burdens" above, accepts and records the additional easement.; and Grantor has given advance written notice, including copy of proposed additional easement, to Grantee at least sixty (60) days prior to execution.

17. DISCRETIONARY CONSENT

- A. The Grantee's consent for activities otherwise prohibited herein may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the activities listed in Section 2 are deemed desirable by the Grantor and the Grantee, the Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission shall be in

writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the Purposes of this Easement. The Grantee may give its permission, in writing, only if it determines, in its sole discretion, that such activities (i) are not detrimental to the Purposes of this Easement and (ii) either enhance or do not impair any significant conservation interests associated with the Property.

B. Notwithstanding the foregoing, the Grantor and the Grantee shall have no right or power to agree to any activities that would result in the termination of this Easement or to allow any residential, commercial or industrial structures, or any commercial or industrial activities, not provided for above.

18. AMENDMENT

If, owing to unforeseen or changed circumstances, Grantor and Grantee agree that an amendment to, or modification of, this Easement would be appropriate and desirable, Grantor and Grantee may jointly amend this Easement pursuant to: the provisions and limitations of this section; the then-current amendment policies of the Grantee; and applicable state and federal law. Any amendment shall be consistent with the Purposes of this Easement, and shall not impair the conservation values of the Property protected by this Easement. No amendment shall affect the qualification of this Easement or the status of the Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986, as amended, and NH RSA 477:45-47 as may be amended from time to time, nor shall any amendment affect the perpetual duration of this Easement. Any amendment shall be executed by the Grantor and the Grantee and shall be recorded in the Merrimack County Registry of Deeds. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

19. ENTIRE AGREEMENT

This instrument sets forth the entire agreement of the parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, and agreements relating to this Easement, all of which are merged herein.

20. GOVERNING LAW & INTERPRETATION

This Easement shall be interpreted under and governed by the laws of the State of New Hampshire, and shall be liberally construed to effect the Purposes of this Easement.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation Purposes for which this Easement is delivered.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day
of _____, 2013.

Robert A. Nasdor, American Whitewater Northeast
Stewardship Director

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

This instrument was acknowledged before me on this _____ day of _____,
2013 by **Robert A. Nasdor** on behalf of American Whitewater. The identity of the subscribing
party was determined by (check box that applies and complete blank line, if any):

- My personal knowledge of the identity of said person OR**
- The oath or affirmation of a credible witness, _____ (name of
witness), the witness being personally known to me OR**
- The following identification documents: _____
(driver's license, passport, other).**

Notary Public/Justice of the Peace
My Commission Expires: _____

ACCEPTED:

GRANTEE:

FIVE RIVERS CONSERVATION TRUST

By: _____
Margaret B. Watkins

Its Vice Chair of the Board of Trustees
Hereunto duly authorized

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

This instrument was acknowledged before me on this _____ day of _____, 2012 by
Margaret Watkins, who acknowledged herself to be the Vice Chair of the Board of Trustees of
the **Five Rivers Conservation Trust**, and acting in said capacity, and being authorized so to do,
executed the foregoing instrument on behalf of the **Five Rivers Conservation Trust** as its
voluntary act and deed for the purposes therein contained. (check box that applies and complete
blank line, if any):

- My personal knowledge of the identity of said person OR
- The oath or affirmation of a credible witness, _____ (name of witness), the witness being personally known to me OR
- The following identification documents: _____ (driver's license, passport, other).

Notary Public/Justice of the Peace

My Commission Expires: _____

APPENDIX A

A certain tract or parcel of undeveloped land, consisting of approximately 13.56 acres, situated on the north side of Western Avenue, so-called, in the Town of Henniker, County of Merrimack, State of New Hampshire, shown as Area "A" and Submerged Area on a plan entitled "Boundary Survey, Land of Estella E. Presby and Doris G. & V. William Laughlin by SVE Associates, dated 8/20/2013," to be recorded herewith at the Merrimack County Registry of Deeds (the "Plan"), and more particularly bounded and described as follows,

Beginning at the southeasternmost corner of the Property at a point 9.15' N 53° 26' 00" W from a 2" pipe on the northern side of Western Avenue,

Thence continuing along said bearing a distance of 235.12' to an iron bar,

Thence turning and running S 32° 56' 21" W a distance of 111.75' to a point on the Henniker Hillsborough town line,

Thence turning and running along said Henniker/Hillsborough town line N 8° 48' 12" W a distance of 788.07' to a rebar near the south bank of the Contoocook River,

Thence continuing along the said bearing a distance of 96' +/- to a point in the thread of the river,

Thence following the thread of the river easterly and southeasterly to a point, which point is located 105'+/- N 70° 07'31" W of an iron pipe on the south bank of the river, and proceeding S 70°07'31" E a distance of 105'+/- to said iron pipe,

Thence N 85° 48' 42" E a distance of 33.21' to an iron rod in the centerline of old Rte. 202/9, as shown on the Plan,

Thence turning and running S 5° 04' 40" E a distance of 92.35' along said centerline of old Rte. 202/9 to a point,

Thence along the arc of a curve to the right having a radius of 286.50', a delta of 24° 41' 54", and a length of 123.50' along said centerline of old Rte. 202/9 to a rebar on the northerly side of Western Avenue,

Thence turning and running along the arc of a curve to the right with a radius of 843.60', a delta of 24° 41' 54", and a length of 86.15' to a rebar on the northerly side of Western Avenue,

Thence turning and running N 53° 03' 40" W a distance of 8.09' to a rebar,

Thence turning and running along Western Avenue along the arc of a curve to the left with a radius of 253.50', a delta of 5°02'00", and a length of 22.27' to a point,

Thence S 41° 58' 20" W a distance of 665.00' along said Western Avenue to a point,

Thence along the northern side of said Western Avenue along the arc of a curve to the left with a radius of 1943.00', a delta of $2^{\circ} 35' 07''$, and a length of 87.67' to the point of beginning.

MEANING AND INTENDING to describe a portion of the same premises conveyed by Robert B. Howard, III, Administrator of the Estate of Vertner William Laughlin to American Whitewater by Fiduciary Deed of near or even date to be recorded herewith, and being a portion of the same premises shown as Tract #3 in deed of Estella E. Presby to Estella E. Presby, Doris G. Laughlin, and V. William Laughlin dated April 16, 1986, recorded at the Merrimack County Registry of Deeds at Book 1559, Page 153.

The Property is NOT HOMESTEAD property of the Grantor.