

## TRAILS EASEMENT AGREEMENT

This easement agreement (the “Agreement”) is entered into as of \_\_\_\_\_, 2021, between KR Property I, LLC, a Michigan limited liability company, whose registered mailing address is 14252 US Highway 41, Copper Harbor, MI 49918 (“Grantor”) and Copper Harbor Trails Society, Inc., a Michigan non-profit corporation, a.k.a. the Copper Harbor Trails Club, whose registered mailing address is PO Box 37, Copper Harbor, MI 49918 (“Grantee”) on the following terms and conditions:

**1. Background.** Grantor is the owner of the following real property:

the following real property in the Township of Grant, County of Keweenaw, State of Michigan, legally described as follows:

The Southwest quarter of Section 31, Township 59 North, Range 28 West, subject to an easement for a highway right of way to Board of Commissioners of Keweenaw County and also subject to an easement for a highway right of way described as a strip of land 400 feet wide lying 200 feet each side of and adjacent to the center line of US Hwy 41, as now established, over the South half of the Southwest quarter, except for that portion of the parcel shown as “Proposed Parcel A” on Sheet #1 of a Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Instrument No. 20170422, as amended by a Scrivener’s Affidavit filed on August 23, 2017, Instrument No. 20170502, that lies within said Southwest quarter of Section 31; and

That portion of the parcel of property shown as “Remaining Parent Parcel #2” on said Certificate of Survey that lies within the Southeast quarter of Section 31, Township 59 North, Range 28 West.

AND

the following real property in the Township of Eagle Harbor, County of Keweenaw, State of Michigan, legally described as follows:

Southeast quarter of Section 36, Township 59 North, Range 29 West, subject to an easement for a highway right of way to Board of Commissioners of Keweenaw County.

(the "Property"). The Property has a number of existing trails on it that are, as of the Execution Date of this Agreement, a part of Grantee's trail network. The Property also has trails that are not part of the Grantee's trail network, which shall not be subject to the terms of this Agreement. Grantor has recently purchased the Property, and the parties wish to formalize their relationship and the responsibilities of each party concerning these existing trails.

Grantor is also the owner of the following real property:

A parcel of land being a part of the South Half (S ½) of Section 31, T59N, R28W, Grant Township, Keweenaw County, Michigan AND the North Half of Section 6, T58N, R28W, Grant Township, Houghton County, Michigan described as: Beginning at the Southeast corner of said Section 31, T59N, R28W and the Northeast corner of said Section 6, T58N, R28W thence S. 00° 17' 27" E. 1766.33 feet along the East line of said Section 6; thence N. 89° 10' 31" W. 4220.22 feet to a point on the Easterly right of way line of Highway U.S. 41 (33 feet from center line); thence along the Easterly right of way line of said Highway the following eight courses N. 00° 49' 59" W. 33.95 feet to the point of curvature of a curve to the Right (Radius = 1041.27 feet, Delta = 15° 36' 17", Chord Bears N. 07° 53' 20" E. 282.72 feet); thence along the arc of said curve to the Right 283.59 feet; thence N. 15° 41' 29" E. 604.59 feet to the point of curvature of a curve to the Left (Radius = 620.65 feet, Delta = 35° 53' 27", Chord Bears N. 02° 15' 15" W. 382.46 feet); thence along the arc of said curve to the Left 388.78 feet; thence N. 20° 11' 58" W. 242.73 feet to the point of curvature of a curve to the Right (Radius = 724.21 feet, Delta = 19° 14' 13", Chord Bears N. 10° 34' 52" W. 242.01 feet); thence along the arc of said curve to the Right 243.15 feet to point on the North line of said Section 6; thence S. 89° 35' 55" E. 167.06 feet along the North line of said Section 6 to a point on the Southeasterly right of way line of said Highway (200 feet from the center line) and to the point of curvature of a curve to the Right (Radius = 557.21 feet, Delta = 28° 09' 25", Chord Bears N. 12° 42' 25" E. 271.08 feet); thence along the arc of said curve to the Right 273.83 feet; thence N. 55° 56' 17" E. 183.29 feet; thence N. 88° 38' 15" E. 998.32 feet; thence S. 51° 39' 00" E. 552.02 feet; thence S. 85° 13' 53" E. 189.44 feet; thence S. 20° 26' 38" E. 50.49 feet to a point on the South line of said Section 31, thence S. 89° 23' 51" E. 2136.51 feet to the point of beginning of this description.

Said Property being shown as Parent Parcel #1 and Proposed Parcel "A" on Sheet #1 of a Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Instrument No. 20170422, as amended by a Scrivener's Affidavit filed on August 23, 2017, Instrument No. 20170502.

(referred to herein as “Parent Parcel #1 and Proposed Parcel A”). Parent Parcel #1 and Proposed Parcel A have three existing trails that are, as of the Execution Date of this Agreement, a part of Grantee’s trail network. One of those trails begins on the easterly right-of-way line of Golf Course Road and is approximately described as “Easement #1” in the Certificate of Survey recorded with the Keweenaw County Register of Deeds on July 14, 2017 at 20170422, as amended by a Scrivener’s Affidavit recorded on August 23, 2017 at 20170502. The parties agree that this legal description for Easement #1 found within the 2017 Certificate of Survey does not accurately describe the trail that is currently in existence. That trail is being surveyed for purposes of a separate access easement. Once that trail has been surveyed and a legal description created, this paragraph shall be amended (and the amended Agreement shall be recorded) to describe the access easement with that survey description. (referred to herein as “Easement #1”). The other two existing trails are described as Easement #2 and Easement #3 on the Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Instrument No. 20170422, as amended by a Scrivener’s Affidavit filed on August 23, 2017, Instrument No. 20170502, and legally described as follows:

EASEMENT #2: An easement being a part of the North Half (N ½) of Section 6, T58N, R28W, Grant Township, Keweenaw County, Michigan said easement being 15 foot wide lying 7.50 feet either side of the following described center line described as: Commencing at the Northeast corner of said Section 6, T58N, R28W, Grant Township, Houghton County, Michigan thence S. 00° 17’ 27” E. 1381.44 feet along the East line of said Section 6 to the point of beginning of this easement centerline; thence N. 81° 39’ 16” W. 69.33 feet; thence N. 87° 48’ 05” W. 56.02 feet; thence N. 71° 26’ 27” W. 47.28 feet; thence S. 70° 46’ 17” W. 67.77 feet; thence S. 02° 53’ 36” W. 31.52 feet; thence S. 18° 59’ 48” W. 22.49 feet; thence S. 77° 06’ 19” W. 54.92 feet; thence S. 57° 31’ 07” W. 41.94 feet; thence S. 64° 52’ 51” W. 119.68 feet; thence S. 69° 01’ 52” W. 97.55 feet; thence N. 65° 07’ 10” W. 110.08 feet; thence N. 87° 53’ 19” W. 68.98 feet; thence N. 72° 57’ 33” W. 57.87 feet; thence S. 70° 15’ 29” W. 106.55 feet; thence N. 73° 29’ 07” W. 51.78 feet; thence S. 78° 12’ 31” W. 99.12 feet; thence S. 42° 45’ 15” W. 45.48 feet; thence S. 73° 07’ 24” W. 74.61 feet; thence N. 76° 15’ 19” W. 28.94 feet; thence S. 68° 47’ 30” W. 31.98 feet; thence N. 52° 22’ 36” W. 25.94 feet; thence S. 76° 46’ 26” W. 68.32 feet; thence S. 80° 26’ 14” W. 92.62 feet; thence S. 63° 00’ 02” W. 74.41 feet; thence S. 76° 03’ 56” W. 127.92 feet; thence N. 75° 28’ 17” W. 39.06 feet; thence S. 80° 02’ 37” W. 157.07 feet; thence N. 82° 12’ 57” W. 82.35 feet; thence N. 66° 44’ 37” W. 68.88 feet; thence S. 88° 15’ 41” W. 167.88 feet; thence N. 69° 53’ 00” W. 51.49 feet; thence N. 37° 13’ 10” W. 66.50 feet; thence N. 60° 08’ 24” W. 72.52 feet; thence N. 36° 48’ 36” W. 47.55 feet to the point of ending of this description. Said description is intended to end at the Easterly right of way line of Golf Course Road.

EASEMENT #3: An easement being a part of the North Half (N ½) of Section 6, T58N, R28W, Grant Township, Keweenaw County, Michigan said easement being 15 foot wide lying 7.50 feet either side of the following described center line described as: Commencing at the Northeast corner of said Section 6, T58N, R28W, Grant Township, Houghton County, Michigan thence S. 00° 17' 27" E. 1766.33 feet along the East line of said Section 6; thence N. 89° 10' 31" W. 2655.87 to the point of beginning of this easement centerline; thence N. 75° 06' 07" E. 107.69 feet; thence S. 85° 23' 11" E. 38.22 feet; thence N. 84° 58' 39" E. 100.03 feet; thence N. 84° 24' 20" E. 308.74 feet; thence N. 51° 02' 28" E. 14.02 feet; thence N. 74° 52' 35" W. 65.98 feet; thence N. 24° 03' 20" W. 55.43 feet; thence N. 78° 47' 19" W. 80.48 feet; thence N. 67° 12' 32" E. 77.51 feet to the point of ending of this description.

Collectively, the three existing trails within Parent Parcel #1 and Proposed Parcel A are referred to herein as "Easement #1, Easement #2 and Easement #3. The parties wish to formalize their relationship and the responsibilities of each party concerning Easement #1, Easement #2, and Easement #3 as well.

**2. Grant of the Easement.** Grantor hereby grants to Grantee an easement on the following terms and conditions:

A. **Description of Easement.** The easement shall be a non-exclusive easement to Grantee, forty feet in width, extending twenty feet to each side from the centerline over all existing trails on the Property that are part of Grantee's trail network as of the Execution Date of this Agreement, as are identified by GPS points included in the attached Exhibit A ("the Trails"). The easement shall also include Easement #1, Easement #2, and Easement #3. The Trails do not include the trail extending from west to east on the south side of the Garden Brook that is commonly known as the "military trail," other existing trails on the Property that are not part of Grantee's trail network as of the Execution Date of this Agreement, or any additional trails that Grantor chooses to place on the Property after the Execution Date of this Agreement.

B. **Use of Easement; Prohibited Uses; Notification; Enforcement.** The Trails shall be made available for use by the general public for human-powered, non-motorized, recreational purposes, including (but not limited to) biking, walking, hiking, snowshoeing, and cross-country skiing. Grantee shall have the ability to regulate or restrict uses (including but not limited to the uses listed above) or to place limitations which Grantee, in its reasonable discretion, determines appropriate for the continued use and vitality of the Trails (or any portion thereof). Additionally, use of the Trails by Grantee and by the general public shall be subject to the following restrictions:

- i. Use by the general public may occur during any hours; provided however, Grantor reserves the right to restrict the hours of use to daylight hours,

should Grantor reasonably determine, that use of the Trails during nighttime hours constitutes an unreasonable safety risk or nuisance to the Property; and further provided that Grantor shall not unreasonably prohibit nighttime use of the Trails.

- ii. Trespassing onto the Property outside of the Trails is prohibited.
- iii. Loud or interfering noise, including but not limited to radios and amplified sound, is prohibited.
- iv. Smoking or the lighting of fires is prohibited.
- v. No animals may be brought onto the Trails, except for dogs if on leash or under voice control at all times.
- vi. Consumption of alcoholic beverages or marijuana on the Trails is prohibited.
- vii. Use of illegal drugs on the Trails is prohibited.
- viii. Littering, picking or injuring trees or other vegetation, or injuring or harassing wildlife is prohibited, except that non-commercial picking of berries and mushrooms is permitted within 20 feet of the centerline of the Trails.
- ix. Hunting, trapping, and the use of firearms are prohibited on the Trails, except that those activities shall be allowed on any portion of the Trails falling within commercial forest reserve status pursuant to the Commercial Forest Act.
- x. Neither Grantor nor Grantee may charge any fee for use of the Trails.

Grantee shall place signs, in a form approved by Grantor, describing such restrictions, at appropriate locations to reasonably inform the general public of the restrictions on use of the Trails, and by placing and maintaining such signs, Grantee shall have met its obligations under this paragraph relative prohibited uses. Grantor or Grantee may enforce these restrictions by issuing warnings, removing individuals violating these restrictions from the Trails, or seeking civil relief or criminal charges against members of the general public who violate these restrictions.

Grantee, subject to Grantor's written approval, may construct and repair modest structures to benefit recreational uses including, but not limited to, informational/interpretive and wayfinding signage or kiosks, benches, railing, and picnic tables.

Grantor is considering the placement of a snow terrain park within the portion of the Property to the east of US Highway 41 and to the west of the electrical and water line easement that is shown in that portion of the parcel of property shown as "Remaining Parent Parcel #2" on the Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Instrument No. 20170422, as amended by a Scrivener's Affidavit filed on August 23, 2017, Instrument No. 20170502, that lies within the Southeast quarter of Section 31, Township 59 North, Range 28 West (referred to herein as the "Potential Snow Terrain Park Area"). Portions of some of the Trails are found within the Potential

Snow Terrain Park Area. The snow terrain park may impact access by Grantee or use by the general public of any portion of the Trails in the Potential Snow Terrain Park Area. Should access or use be affected, Grantor agrees to use best efforts, in consultation with Grantee and at Grantor's sole expense, to create alternate Trails to cross the Potential Snow Terrain Park Area in unaffected locations.

- C. **Michigan Recreational Land Use Act.** Grantor and Grantee intend for use of the Trails by the public to qualify as uses contemplated by MCL 324.73111, the Recreational Land Use Act, and for the protections afforded by said Act to apply to Grantor and Grantee. It is intended that use of the Trails by the public will be unsupervised and that Grantee shall place signs at the entrances to the Trails network which incorporate statements similar to "use at your own risk".
- D. **Maintenance of Trails.** Grantee, at Grantee's sole expense, shall be solely responsible for maintaining and repairing the Trails for use by the general public; provided, however, that Grantor shall be responsible for maintenance and repair as a result of damage to the Trails caused by Grantor or Grantor's agents or employees, if any. Maintenance and repair of the Trails by Grantee shall be completed in such a manner as to ensure that Grantee is not engaging in gross negligence or willful and wanton misconduct with regard to the general public's use of the Trails. Such maintenance and repair by Grantee shall include the following:
- i. Inspection and clearing of all Trails between May 15 and October 15 of each year;
  - ii. Removal of trees or vegetation from the Trails within a reasonable time following major windstorms occurring between May 15 and October 15 of each year; and
  - iii. Construction of new and/or repair of existing bridges, ramps, steps, or other man-made improvements on the Trails.

Grantor may, but shall not be required to, groom any of the Trails for skiing or other snow activities at any period between October 16 and May 14, and if Grantor completes such grooming, Grantor shall have the right to restrict non-motorized uses of those groomed Trails while they are groomed.

Should Grantee discover between May 15 and October 15 each year (through its own inspection, or through information provided by Grantor or the general public received by Grantee, that the Trails, or any portion thereof, require maintenance or repair in order to remedy a dangerous condition which left unattended reflects gross negligence or willful and wanton misconduct with regard to the general public's use of the Trails, Grantee shall take the following actions:

- i. Promptly close the Trails (or such portion thereof) by placing signs and/or blockades clearly indicating the closure ("Prompt Closure Requirement"); and

- ii. shall be reasonably prompt in effectuating appropriate maintenance and repairs, afterwhich the Trails shall be reopened.

Should Grantor, or its employees or agents, cause damage to the Trails, Grantor shall be solely responsible for promptly closing the Trail (or portion thereof) by placing signs and/or blockades clearly indicating the closure, and shall be reasonably prompt in effectuating appropriate maintenance and repairs, afterwhich the Trails shall be reopened.

Should Grantor discover between October 16 and May 14 of each year (through its own inspection, or through information provided by the general public and received by Grantor), that any portion of the Trails require maintenance or repair to remedy a dangerous condition which left unattended reflects gross negligence or willful and wanton misconduct with regards to the general public's use of the Trails, Grantor shall close the dangerous portion of the Trails and place signs and/or blockades indicating the closure. Grantor may, in Grantor's discretion, effectuate maintenance and repairs, or may leave such necessary maintenance and repairs for Grantee to effectuate such maintenance and repairs in a reasonable prompt manner after the following May 15.

- E. **Removal of Trash and Litter.** Grantee shall regularly remove trash, and litter from the Trails that is caused by Grantee or the general public. Grantee shall not be responsible for removing trash, and litter caused by Grantor, its employees, or its agents; Grantor shall be responsible for removing such trash, and litter.
- F. **Marker Signs.** Grantee shall place and maintain signs marking the Trails and man-made improvements as necessary to make reasonably clear to the general public where the Trails exist on the Property and as necessary to ensure the absence of gross negligence or willful or wanton misconduct toward the general public. Grantee shall place and maintain signs at all trail heads on the Property confirming that Grantee does not maintain the Trails between October 16 and May 14 of the following year.
- G. **Improvements to Trails.** Grantee may make improvements to the Trails provided that the following conditions are met: such improvements shall be constructed from wood or natural materials; such improvements shall not be constructed with the intent or ability of providing shelter; the Trails shall not be paved; and such improvements shall not be constructed in a grossly negligent way or in a way that constitutes willful or wanton misconduct toward the general public. Any trails constructed by Grantor which cross Grantee's Trails shall be constructed or improved by at least this same standard, except that Grantor may construct improvements with the intent or ability of providing shelter provided that such improvements do not cross Grantee's Trails.
- H. **Use of Motorized Vehicles; Crossing of Grantor Roads or Trails.** The Trails shall not be used by motorized vehicles, except as provided within this paragraph.

Grantee may use motorized vehicles on the Trails for maintenance and trail grooming purposes. Grantor may use motorized vehicles on the Trails, but only for grooming any of the Trails for skiing or other snow activities between October 16 and May 14, as provided for in paragraph 2(D) of this Agreement. Emergency response or rescue motorized vehicles may be used on the Trails or elsewhere on the Property as needed. Grantor may place motorized roads or trails on the Property in such manner so that they cross the Trails, but such motorized roads or trails may only be a maximum of twenty feet in width, and such roads or trails shall cross in a maximum of three locations, and only provided that Grantor places signs clearly indicating each such crossing zone from both directions and requiring that traffic yield to traffic on the Trails. Grantor may use motorized vehicles on Grantor's non-motorized trails for maintenance and trail grooming purposes or for emergency response or rescue purposes; such trails shall remain non-motorized and shall not count toward the motorized trail crossing maximum. Grantor agrees to place any horse trail crossing locations over the Trails in such manner so as to ensure the absence of gross negligence or willful or wanton misconduct toward the general public. Grantor shall provide Grantee with at least 10 days' notice of any proposed horse trail crossings to provide Grantee with the ability to review the proposed horse trail crossing location. Any horse trail crossings placed by Grantor shall be clearly marked with "stop" signs at both sides of the location of any Trail crossing. Grantor shall also provide Grantee with at least 10 days' notice of any trail crossing over the Trails that will affect the grade or otherwise structurally impact any portion of the Trails. Such trail crossing shall require the express consent of Grantee.

- I. **Ingress and Egress for Maintenance and Repair.** Grantor grants Grantee (and its officers, employees, and agents) the right of ingress and egress across the Property on existing trails or roads for the purposes of repairing, maintaining, and inspecting the Trails, provided that Grantee shall provide no less than 24-hours' notice of scheduled maintenance, and reasonable notice of any other maintenance when feasible.
- J. **Placement of New Trails, Relocating Existing Trails or Eliminating Trails.** Grantor and Grantee may agree to the creation of new, human-powered, non-motorized trails on the Property or relocating existing Trails, which new or modified Trails shall also be subject to this Agreement. Grantor and Grantee may also agree on eliminating existing Trails. Adding, relocating or eliminating Trails shall require a written amendment to this agreement describing the changes in the Trails, executed by the parties then in interest, which amendment shall become effective when recorded at the Keweenaw County Register of Deeds.
- K. **Grantor Trails.** Nothing within this Agreement shall prevent Grantor from placing new non-motorized trails in the Property, provided such trails do not overlap the Trails and are a maximum of twenty feet in width, and further provided that Grantor places signs clearly indicating crossing zones over Trails from both directions and requiring that traffic on Grantor trails yield to traffic on the Trails.



- L. **Survey.** The parties agree that either party may choose to, at its own expense, have a survey completed of some or all of the Trails by a licensed surveyor, to include a recordable drawing of the Trails. The other party shall have thirty days from receipt of that surveyed drawing to object to the accuracy of such drawing, at which point the parties must meet and confer to attempt to resolve their differences. If such differences cannot be resolved, the parties may seek a declaratory order from a court of competent jurisdiction to determine an accurate surveyed drawing of the Trails. Once resolved, the survey drawing shall be recorded, as an amendment to Exhibit A of this Agreement.
- M. **No Property Interest; No Interest Outside of Trails.** Nothing contained in this Agreement creates or implies any property interests, including easements or rights-of-way, beyond the terms and conditions of this Agreement. This Agreement does not grant or convey to Grantee or members of the general public any ownership interest in the Property. This Agreement does not pertain to, and Grantee is not being granted any interest in, any area of the Property outside of the area covered by the Trails.
- N. **Restoration.** Except as provided herein, neither Grantor nor Grantee shall be required to restore the Trails due to any causes beyond its control, including, but not limited to: unauthorized actions of third parties that are not reasonably foreseeable or preventable by Grantor or Grantee or natural causes or natural events such as wildfires, floods, storms or natural earth movement.
3. **Consideration.** The parties agree that the consideration for this Easement Agreement is less than One Hundred Dollars (\$100) and such consideration is sufficient and adequate.
4. **Indemnification.** Regardless of the applicability of the Michigan Recreational Land Use Statute, Grantor shall not be responsible for property damage or personal injury resulting from use by the general public or by Grantee of the Trails, whether that use is in conformance with or in violation of the restrictions described herein. As previously stated, the parties intend that Grantor, as owner of the Trails, and Grantee, as holder of this Easement, shall each receive the benefit of the Recreational Land Use Act, MCL 324.73301. By reason of this Agreement alone, no member of the general public shall be considered to have been “expressly invited” by Grantor to enter the Property or the Trails. Except as provided below, Grantee shall indemnify, defend, save and hold Grantor, and its members, directors, officers, employees, and agents, harmless from any and all claims, demands, suits, or liability of any nature, kind, or character, resulting from, related to, or associated with personal injury or death or property damage occurring on the Trails or on the Property as a result of use of the Trails, regardless of cause, except to the extent such claim is the result of gross negligence or willful misconduct of Grantor or any of its members, directors, officers, employees, or agents. Such indemnification by Grantee shall include (but shall not be limited to) liabilities, losses, settlement payments, judgments, damages, fines, costs, and attorney fees.

Grantee shall also indemnify, hold harmless, and defend Grantor against any and all claims, demands, suits, or liability of any nature, kind, or character resulting from property damage and/or personal injuries that occurred or are alleged to occur as a result of Grantee's entry on the Property, including but not limited to its development and maintenance of the Trails, or Grantee's use of the Trails, except to the extent caused by the grossly negligent or wrongful acts or omissions of Grantor or any of its members, directors, officers, employees or agents. Such indemnification by Grantee shall include (but shall not be limited to) liabilities, losses, settlement payments, judgments, damages, fines, costs, and attorney fees.

5. **Liability Insurance.** Grantee shall purchase at its own expense and maintain in force at all times during the term of this Agreement a general liability insurance policy, which includes coverage for bodily injury, personal injury, and property damage suffered by the general public on or involving the Trails and the activities conducted by the Grantee concerning the Trails. The coverage shall not be less than \$1,000,000.00 per occurrence. The policy purchased shall name Grantor as an additional insured. Grantee shall provide a certificate of insurance (and applicable renewals) providing proof of such insurance to Grantor.
6. **Remedies Following Breach.** Should Grantee violate the Prompt Closure Requirement, Grantor may elect to terminate this Agreement by providing written notice to Grantee and without opportunity to cure. Should Grantee violate any of the other requirements described in paragraph 2(D) of this Agreement, and following written notice to Grantee identifying the violation or continuing violation and providing Grantee 15 days to cure the violation, Grantor may elect to terminate this Agreement. Should Grantor make such election after such notice and Grantee's failure to cure the violation, this Agreement shall be of no further force and effect.

Should either party violate any other requirement under this Agreement, the nonbreaching party may seek enforcement of the Agreement and damages (including but not limited to reasonable attorney fees) from a court of competent jurisdiction. Neither party shall forfeit its right to take legal action to enforce this Agreement by any prior failure to act.

7. **Binding Effect; Assignment.** This Agreement shall be perpetual and binding upon and inure to the benefit of the parties, their respective heirs, representatives, successors, and assigns, and shall create an easement appurtenant, running with the land in perpetuity, unless modified or terminated by mutual, written agreement of the parties or pursuant to paragraph 6 of this Agreement.

Grantor may assign its respective rights and responsibilities under this Agreement without restriction. Grantee may assign its rights and responsibilities under this Agreement to a unit of federal, state or local government or to an organization that is (i) "qualified" within the meaning of Section 170(h)(3) of the Code, and in the regulations promulgated thereunder, or any successor provisions then applicable, and (ii) that is established as a public charity for the purpose of maintaining trails and/or preserving and conserving natural resources or natural habitats. As a condition of any assignment, any future holder of this Trails Easement shall be an entity that has perpetual existence. Grantee agrees to

obtain the Grantor's consent to such assignment, which consent shall not be unreasonably withheld, at least thirty (30) days before the date of such assignment.

If Grantee ceases to exist or ceases to be a qualified organization under Section 170(h)(3) of the Code, then this Trails Easement shall be vested in such qualified corporation, body or agency as defined and upon the conditions and limitations contained above as the Grantee shall designate. If, on the occurrence of any of these events, the Grantee fails to assign all of its rights and responsibilities under this Agreement and all of its rights, title and interest in and to this Trails Easement to a qualified organization, then Grantee's rights and responsibilities under this Agreement shall become vested in another qualified organization in accordance with a cy pres proceeding brought in any court of competent jurisdiction. The then-current owner of the Property will be notified of any such proceedings.

Should Grantee dissolve as a nonprofit entity without assigning its rights and responsibilities under this Agreement, this Agreement shall terminate and be of no further force and effect.

- 8. Jurisdiction.** Any lawsuits filed related to this Agreement, and of the rights and duties of the parties, shall be filed in Keweenaw County, Michigan and shall be governed by Michigan law.
- 9. Severability.** If any portion of this Agreement is determined to be invalid, the remaining provisions will remain in force.
- 10. Entire Agreement.** This Agreement constitutes the full and final agreement of the parties hereto and supersedes any prior or contemporaneous agreements. This Agreement may not be modified orally, or in any manner other than by an agreement in writing and signed by both parties or their respective successors in interest.
- 11. Effective Date.** This Agreement shall be effective as of the date that the last party to this Agreement executes the Agreement.

**Exempt from State Transfer Tax under MCL 207.526(a); Exempt from County Transfer Tax under MCL 207.505(a).**

GRANTOR  
KR Property I, LLC

---

By: John Mueller  
Its: Member



Prepared By:  
Molly P. Ombrello (P74411)  
115 S. Lakeshore Blvd., Ste. A  
Marquette, MI 49855

TITLE NOT EXAMINED BY SCRIVENER