

**STORMWATER MANAGEMENT FACILITIES**  
**MAINTENANCE AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, being the owner of the premises known as \_\_\_\_\_ located at \_\_\_\_\_, Brewster, New York 10509 (the “Owner”) in favor of the **TOWN OF SOUTHEAST**, a municipal corporation having an office at Town Hall, 1360 NYS Route 22, Brewster, New York 10509 (“Town”).

**WITNESSETH:**

**WHEREAS**, Owner is the current owner of premises located in the Town of Southeast, County of Putnam and State of New York, commonly known as \_\_\_\_\_, shown on the Town of Southeast Tax Map as \_\_\_\_\_, and described by metes and bounds on **Schedule A** annexed hereto (the “Premises”); and

**WHEREAS**, site development plan approval for the Premises was granted by the Town for land development activity at the Premises, in connection with which stormwater management facilities (the “Facilities”) as required have been constructed and installed on the Premises in accordance with the Town of Southeast Code (the “Code”) and New York State Department of Environmental Conservation (“DEC”) Regulations; and

**WHEREAS**, as a condition to the issuance of such approval the Code further requires Owner to execute a maintenance agreement if required by the Town’s Stormwater Management Officer (“SMO”) and record the same in the Office of the Putnam County Clerk.

**NOW THEREFORE**, for valuable consideration received, the Owner and the Town hereby agree as follows:

1. The Owner, or upon Owner’s conveyance of the Premises, its successors and assigns, shall at all times properly operate and maintain all Facilities and all related systems of stormwater treatment and control in accordance with the provisions of the Code and applicable DEC regulations, standards and guidelines, as the same may be in effect and as the same may be amended from time to time.

2. In accordance with the terms and conditions of a Stormwater Management Facilities Inspection and Maintenance Easement (“Easement”) of even date herewith, to be recorded in the Putnam County Clerk’s Office, Owner has granted unto the Town, its successors and assigns forever, a perpetual easement and right-of-way to enter upon the

Premises in order to access the Facilities at reasonable times and in a reasonable manner for periodic inspection by the Town, with notice given to Owner a minimum of 24 hours prior to entry, to ensure that the Facilities are maintained in proper working condition to meet design standards and any other provisions established by the Code in effect as of the date of the Easement and as amended hereafter.

3. This agreement shall not confer upon the Town any duty or obligation to fix or maintain the Facilities. Further, the Town's acceptance of any rights pursuant to this Agreement and any applicable provisions of the Code of the Town of Southeast shall not be deemed or construed as acceptance by the Town of any duty or obligation to fix or maintain the Facilities.

4. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall be bound to the maintenance provisions depicted in the approved project plans for the Facilities, which plans are available in the Office of the Building Inspector of the Town of Southeast, in accordance with all applicable provisions of the Code and the DEC regulations, standards and guidelines.

5. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall maintain, clean, repair, replace and continue the stormwater control measures for the Facilities as necessary to ensure effective stormwater control measures consistent with the aforementioned plans, in accordance with all applicable provisions of the Code and the DEC regulations, standards and guidelines, as the same may be currently in effect and as may be amended from time to time.

6. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall be responsible for all expenses related to the maintenance of the stormwater control measures for the Facilities.

7. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall provide for the periodic inspection of the stormwater control measures for the Facilities, not less than once in every five-year period (or at such frequency as set forth in the operation, monitoring and maintenance plan approved by the Planning Board), to determine the condition and integrity of the measures. A professional engineer licensed by the State of New York shall perform such inspection. The inspecting engineer shall prepare and submit to the SMO, within thirty (30) days of the inspection, a written report of the findings, including recommendations for those actions necessary for the continuation of the stormwater control measures for the Facility.

8. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the Facilities' stormwater control measures except in accordance with prior written approval of the SMO.

9. The Owner, or upon Owner's conveyance of the Premises, its successors and assigns, shall promptly undertake necessary repairs and replacement of the Facilities' stormwater control measures at the direction of the SMO or in accordance with the recommendations of the inspecting engineer upon notice from the SMO. Any such notice

shall be sent to Owner by certified mail to the address for such Owner as shown on the records of the Town Assessor. The Owner shall have thirty five (35) days from the mailing of such notice to (a) complete or timely commence corrective action or (b) appeal any such determination to the Town Board. The Owner may appeal any final determination of the Town Board pursuant to Article 78 of the New York Civil Practice Laws and Rules.

10. In the event that the Owner is (a) duly notified by the SMO to undertake such corrective action or maintenance pursuant to Paragraph 9, above, and (b) either (i) does not appeal said notification or (ii) the SMO determination is upheld by the Town Board or a court of competent jurisdiction, and the Owner fails to undertake such corrective action or maintenance in accordance with the project plans or has failed to undertake corrective action specified by the SMO or by the inspecting engineer, the SMO is authorized to undertake such steps as reasonably necessary for the construction, preservation, continuation or maintenance of the Facilities' stormwater control measures. The Facilities owner shall be responsible to reimburse the Town for funds expended to compensate for services rendered to the Town under the Code. In the event of failure to reimburse the Town for such fees, the Town may seek recovery in the manner provided by law.

11. Any damage to the Facilities caused by the Town in inspecting the said stormwater control system shall be restored, repaired or otherwise remedied by the Town. Owner shall be compensated by the Town for any expenses paid as a result of damage caused by the Town, including damage caused by the SMO, in inspecting the said stormwater control system.

12. In the event that the DEC serves a notice of violation upon the Town, brings an administrative complaint against the Town and/or commences a civil suit against the Town due to an alleged violation of the SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems, and such notice of violation, administrative complaint or civil suit is a result of, due to a consequence of or the outcome of any action by the Owner, or its successors or assigns, in violation of any of the provisions of this Agreement, the Code or the DEC regulations, standards and guidelines, the Owner or its successors or assigns shall indemnify and hold harmless the Town for any and all fines, damages or penalties imposed by the DEC upon the Town.

13. Owner hereby covenants that the Owner is seized of the Premises in fee simple and has good right to execute this Agreement; shall do nothing in the Premises which would prevent, impede or disturb the full use and intended purpose of this Agreement; and shall execute and deliver any further documents reasonably necessary to assure the benefits of this Agreement to the Town.



**SCHEDULE A**  
[Property Description]