**McKinistry Hill Property Owners and Easement Holders Agreement.**

**1. Purpose.** This agreement between Black Dog Lane (BDL) property owners / travel easement holders (hereafter “parties”) states their mutual duty to maintain the travel easements located within the private travel access road known as Black Dog Lane.

2. **Duty to Maintain.** The parties acknowledge that Vermont and common law requires property and easement owners to jointly maintain travel easements and to keep them in a proper condition sufficient to permit safe and reasonable motor vehicle access. Each property owner and / or travel access easement holder agrees to jointly maintain the travel easements that either pass through their property and are used by them to any extent, or travel easements used by them that pass through the property of another. In addition property owners and travel easement holders agree to jointly maintain the uphill contiguous travel easement(s) since the proper maintenance of the lower roadway requires proper channeling of downhill water runoff, grading and maintenance of the uphill portions. Each property owner has the individual duty of the proper maintenance of their driveway culverts to prevent water run-off onto the travel road. Nothing in this agreement requires owners to contribute to snow removal. Snow removal is the subject of a separate agreement.

**3.Scope of Easement Maintenance.** The travel common easement consists of a 50’ travel easement originally established under the Richardson McKinistry Hill subdivision and referenced within the deed history of the parties. The 50’ width is determined by 25’ to each side from center. Easement holders have the right to cut trees, tree limbs, brush that unreasonably interfere with the use of the travel easement by commonly used private motor vehicles and commercial vehicles and equipment temporarily utilized for road repair or other lawful (as permitted by deed restrictions) activities conducted within the individual owners parcels. Easement holders may not ‘clear cut’ the sides of the travel easements to the width of the 50’ travel easement but only cut back those portions that are necessary to maintain reasonable vehicle access and for necessary and reasonable road maintenance.

**4. Parties**. The parties to this agreement are either BDL property owners or individuals with lawful travel access easement rights or both.

**5. Maintenance Procedure.** A party may initiate road repairs or maintenance by submitting a road maintenance / repair plan and proposed work contract. The party seeking to initiate road repair shall submit a brief description of the proposed repair work along with a written cost estimate to all other parties. The work proposal shall be made through the Secretary (unless the office of Secretary is vacant).The parties shall respond within 7 days of receiving the repair notice. No response after 7 days shall be considered a “no objection” to the proposed repair. If any party objects, the objecting party shall, within 7 days of the date of his/her objection, (1) Submit an alternative work bid and / or (2) Request a “yes” or “no” vote on the original repair request. Within 5 days of the Secretary’s receipt of an email objection or the submission of an alternative repair bid, all parties shall vote for either, (1) original work contract, (2) the alternative work contract, or (3) denial of any repair. A majority of all parties voting shall determine the outcome. All notice, objections and votes shall be by email and all emails sent to the Secretary shall be copied to each individual party. The cost of easement maintenance and repairs shall be equally assessed to each responsible party as outlined in #2 above. The payment shall be made within 14 days of the completion of the repair or maintenance work. A party may request a delay of payment for an additional 14 days.

**6. BDL Secretary.** Each year one party (or party’s representative) shall be designated BDL Secretary. That person shall be designated Secretary either by volunteering or nomination by any party. If more than one party volunteers or is nominated, the secretary shall be elected by a simple majority vote of all responding parties. The office of secretary shall run from January 1 through December 31 of that year. All nominees or volunteers for the position of Secretary shall be submitted to the current Secretary no later than December 15th and the votes totaled no later then December 31st of that year. If no one volunteers or is nominated, the current Secretary shall remain in place and serve an additional year. If the office of Secretary is vacant due to lack of a volunteer or a nominee, each party may act as temporary Secretary in regards to initiating road repair and conducting a vote as stated in # 4 above. The initial Secretary through December 2012 shall be Jen Hirchak who has previously served as informal secretary prior to this agreement.

**7. Duties of Secretary**. The person designated Secretary shall maintain a list of all parties (property owners and /or easement holders) and their current telephone numbers, USPS mail and email address. The Secretary shall conduct elections as stated in #5 above and conduct the election or designation of Secretary as stated in #6 above. The Secretary shall provide the current email addresses of all BDL parties to any party for the purposes stated in #5 above.

**8. Duties of Parties.** Each party shall keep the Secretary informed of their current telephone, USPS mail and email address. All notices to, and votes by parties shall be by email. All elections shall be conducted by email. *Proof of notice* shall consist of the Secretary keeping a copy of the ‘sent’ email to each party for a particular notice or election for at least 30 days from the date of sending. Unless an emailed notice is returned to the Secretary or sender as ‘undeliverable’ it is assumed the recipient received the sent email notice. All communications (as per #5 above) by and between parties and the Secretary, shall be via email and all repair notices, estimates, etc. shall be sent via email. Any objecting parties as per #5 above shall keep copies of their objecting email for at least 60 days from date of emailing. Parties that fail to keep the Secretary advised of their current USPS mail address, email address and telephone number shall be deemed to have no objection to any repair work as stated in #5 above and shall lose their option to vote on any matter requiring a majority vote while their email address is invalid and their updated email address is not provided the Secretary.

**9. Legal Authority**. All parties agree this agreement is made under the laws of the State of Vermont and enforceable within the jurisdiction of the State of Vermont.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Doris Palumbo

Dated:\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_

Norman Prive Noreen Prive

Dated:\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Thomas Hirchack Jennifer Hirchack

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

James Merikangas

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Robert Erickson

Dated:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Reginald Godin Carol Godin

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joseph J. Crisco III