

## MANAGEMENT ASSISTANCE AGREEMENT

This Management Assistance Agreement ("Agreement") is made this 25<sup>th</sup> day of September, 2014, between Grandfather Mountain Stewardship Foundation, Incorporated, a corporation organized and existing under the laws of the State Of North Carolina, 2033 Blowing Rock Highway, Linville, North Carolina 28646, its successors and assigns ("Grandfather"), and the State of North Carolina, a body politic and corporate, acting by and through the North Carolina Department of Environment and Natural Resources, State Parks and Recreation Division (the "State of North Carolina or State").

### RECITALS

A. State is the owner of a 2,383+/- acre "Backcountry Tract" and 73+/- acre "Profile Trail Tract," collectively referred to as the "State Park Tract," which property is more particularly described in a separate Memorandum of Agreement of even date herewith executed by Grandfather and the State.

B. Grandfather's predecessor corporation, Grandfather Mountain, Inc. and The Conservation Fund ("TCF"), a nonprofit corporation organized and existing under the laws of the State of Maryland, entered into that certain Option For The Bargain Sale Purchase of Real Estate And Conservation Easement, dated October 27, 2008, regarding the purchase and sale of the State Park Tract, as assigned by TCF to the State in that certain Assignment of Option dated March 26, 2009 (as assigned the "Option").

C. Pursuant to the terms of the Option, State acquired the State Park Tract from Grandfather Mountain, Inc. at the Closing, as defined in the Option. The Deed by which the State Park Tract was conveyed to the State included, as Exhibit B thereto, a Reserved Trail Access Easement ("Trail Easement"). The Trail Easement provides access from the Developed

Tract (as defined in the Trail Easement) over and upon certain trails on the State Park Tract which are identified, in the Trail Easement, as the "Easement Trails."

**D.** Prior to Closing, Grandfather Mountain, Inc. managed the State Park Tract.

**E.** State and Grandfather wish to memorialize an agreement by which Grandfather may, from time to time until 12/31/2017, voluntarily assist the State with certain management activities on the State Park Tract.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. MANAGEMENT ASSISTANCE.** From time to time, Grandfather will be permitted, but will not be obligated, to conduct certain types of management activities on the State Park Tract that were conducted by Grandfather prior to the Closing and which are described on attached Exhibit A. Notwithstanding any provision in this Agreement to the contrary, the management activities of Grandfather on the Easement Trails shall be conducted in conformity with the terms and conditions of the Trail Easement. If there is any conflict between the terms of this Agreement and the Trail Easement then, with regard to the Easement Trails only, the Trail Easement shall govern.

**2. TERM:** The term of this Agreement will commence as of the Effective Date of this Agreement, as defined herein, and will end of December 31, 2017.

**3. NOTICES.** All notices required or permitted hereunder will be deemed to have been delivered when posted with the U.S. Postal Service or sent by facsimile, telecopier or other such electronic device, directed as follows:

**If to Grandfather:**

**GRANDFATHER MOUNTAIN  
STEWARDSHIP FOUNDATION, INC.**

2033 Blowing Rock Highway  
Linville, North Carolina 28646  
Attn: Mr. Harris Prevost, Operations Manager  
Phone: (828) 733-2013

**If to State:**

**THE STATE OF NORTH CAROLINA**

***North Carolina Department of Environment  
And Natural Resources, State Parks and  
Recreation Division***

1615 Mail Service Center  
Raleigh, North Carolina 27699  
Attn: Mr. Michael Murphy, Director  
Phone: (919) 707-9333

**4. MISCELLANEOUS.**

**A. Binding Effect.** The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of each party and its successors and assigns.

**B. Exhibits.** The exhibit(s) hereto constitute(s) an integral part of this Agreement and are hereby incorporated herein.

**C. Counterparts.** This Agreement may be executed in counterparts, all of which shall constitute one agreement, which shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

**D. Severability.** If any provision of this Agreement shall be held invalid, the other provisions hereof shall not be affected thereby and shall remain in full force and effect.

**E. Entire Agreement.** This Agreement represents the entire agreement of the parties and may not be amended, except by a writing signed by each party thereto.

**F. Further Actions.** Each party shall execute and deliver or cause to be executed and delivered any and all instruments reasonably required to affect the intent and purposes of this Agreement.

**G. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

**H. Third-Party Beneficiaries.** This Agreement is for the exclusive benefit of Grandfather and the State of North Carolina and there shall be no other beneficiary to any of the provisions of this Agreement.

**I. Complete Agreement.** This Agreement constitutes the sole and complete agreement among the parties and no representations or promises not included in this Agreement shall be binding upon any party to this Agreement.

**J. Effective Date.** The Effective Date of this Agreement shall be the date and year first above written, provided that this Agreement is signed by all parties hereto.

**IN WITNESS WHEREOF,** the parties have executed this Agreement, by and through their authorized representatives, as of the date and year first above written.

SIGNATURES ON THE FOLLOWING PAGE

**GRANDFATHER MOUNTAIN STEWARDSHIP FOUNDATION, INCORPORATED**

By: *James Prevost*

Title: *Vice President*

**STATE OF NORTH CAROLINA, North  
Carolina Department of Environment and  
Natural Resources, State Parks and Recreation  
Division**

By: *Michael H. H. H.*

Title: *Director DPR*

EXHIBIT A  
(Description of Management Activities with Which  
Grandfather May Provide Voluntary Assistance)

Grandfather staff may conduct trail patrols, trail maintenance, and visitor services on the State Park Tract.

Grandfather staff may continue to wear their current uniforms when providing voluntary services on the State Park Tract.

Grandfather staff may close trails, access points, campsites and other facilities on the State Park Tract in the event of an emergency to provide for public safety. Grandfather will notify the State Division of Parks and Recreation superintendent or ranger of such closures.

Grandfather staff may request that visitors to the State Park Tract comply with State Park Rules and may report violations to the State Park superintendent or ranger.

Grandfather staff may provide aid to visitors in need of emergency assistance within the State Park Tract.

Grandfather staff may assist or act as the lead entity in search and rescue incidents on the State Park Tract until state park superintendent or ranger arrives and relieves Grandfather staff.

Grandfather staff may contact local law enforcement and other public safety agencies for an immediate response to accidents, lost person searches, fires, medical emergencies and criminal offenses/investigations. Grandfather will notify park superintendent or ranger immediately as practical.

Grandfather staff shall document such incidents and provide a copy of the documentation to the State Park superintendent or ranger.

Grandfather staff may manage backcountry camping on the State Park Tract, to include collected of fees established by the State, which will then be remitted to the State.

Grandfather staff may perform such other assistance to the State as the State Park superintendent or ranger may request from time to time.

## **Exhibit B**

### **Trail Access Easements**

**H.** The parties wish to enter into this MOA in accordance with and subject to the provisions of the Conservation Easement, the Trail Easement, the Access Easement and Existing Conservation Easements and to memorialize their agreement as set forth herein.

**NOW, THEREFORE,** in consideration of the mutual covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. TERM.** The initial term of the Access Easement and this MOA shall commence as of the date of the deed in which the Access Easement is reserved and shall continue for a period of thirty-five (35) years (the "Initial Term"). Thereafter, the Access Easement and this MOA shall be automatically renewed for consecutive ten (10) year renewal terms (each individual ten (10) year period being a "Renewal Term", collectively the "Renewal Terms"; the Initial Term and the Renewal Term(s), if any, being collectively referred to herein as the "Term") unless, at least one (1) year prior to the end of the Initial Term or the then current Renewal Term, either party provides written notice of termination to the other, in which event the Access Easement and this MOA will terminate at the end of the then-current Term. The termination of the Access Easement and this MOA shall not affect the Conservation Easement, the Trail Easement or the Existing Conservation Easements.

**2. GRANTING OF RIGHTS.** Grandfather shall have the right during the Term to grant to The Learning Lodge all or part of its rights under the Access Easement and this MOA, provided that The Learning Lodge also assumes the duties which correspond to those rights.

Thereafter, The Learning Lodge, as well as Grandfather, may exercise the rights granted and a breach of duty by one shall not affect the rights of the other. Grandfather shall not grant or delegate its rights, duties and obligations under the Access Easement or this MOA to any person or entity other than The Learning Lodge without the express written consent of the State.

**3. RESEARCH ACTIVITIES.** In view of Grandfather's years of valuable experience in conducting research on Grandfather Mountain, Grandfather, in accordance with and pursuant to the Access Easement, shall have the right to access the State Park Tract during the Term for purpose of conducting certain research activities on the State Park Tract, including research of the type conducted prior to Closing (as said research activities are described on the attached Exhibit F); provided that all research activities conducted on the State Park Track shall be consistent with the conservation values, preservation policies and research reporting requirements of the State of North Carolina and the terms and conditions of the Existing Conservation Easements. Grandfather may request, from time to time, that new research projects be permitted on the State Park Tract pursuant to this MOA and approval of such request shall not be unreasonably withheld, provided that such new research activities shall be consistent with the conservation purposes referenced in the first sentence of this paragraph. Prior to commencing any new research activities on the State Park Tract, Grandfather shall provide the State with written notice of its proposed new research activities, and the State shall respond in writing to any such proposal within a reasonable period of time. The right to conduct research on the State Park Tract shall not be exclusive to Grandfather; provided that research performed other than by Grandfather shall be coordinated with Grandfather to avoid conflicts and disturbance of natural values. In the event of any noncompliance with the terms and conditions of this paragraph, Grandfather shall be permitted a reasonable time and opportunity to cure such non-compliance.



**4. EDUCATIONAL ACTIVITIES.** Grandfather, in accordance with and pursuant to the Access Easement, shall have the right to access the State Park Tract during the Term for purposes of conducting certain educational activities of the type conducted prior to Closing on the State Park Tract (as said educational activities are described on the attached Exhibit G); provided that all educational activities conducted on the State Park Tract shall be consistent with the conservation values and preservation policies of the State of North Carolina and the terms and conditions of the Existing Conservation Easements. Grandfather may request, from time to time, that new educational activities be permitted on the State Park Tract pursuant to this MOA and approval of such request shall not be unreasonably withheld provided that such new educational activities are consistent with the conservation purposes referenced in the first sentence of this paragraph. Prior to commencing any new educational activities on the State Park Tract, Grandfather shall provide the State with written notice of its proposed new educational activities, and the State shall respond in writing to any such proposal within a reasonable period of time. The right to conduct educational activities on the State Park Tract shall not be exclusive to Grandfather. In the event of any noncompliance with the terms and conditions of this paragraph, Grandfather shall be permitted a reasonable time and opportunity to cure such non-compliance.

**5. PHOTOGRAPHY.** Grandfather, in accordance with and pursuant to the Access Easement, shall have the right to access the State Park Tract during the Term for purposes of taking photographs or videos in connection with the educational, research and promotional activities of the type conducted by Grandfather prior to Closing; provided that Grandfather shall remain in compliance with the conservation and preservation policies generally implemented by the State of North Carolina in its state park system (in the event of any noncompliance,

Grandfather shall be permitted a reasonable time and opportunity to cure such non-compliance). The right to take photographs and video on the State Park Tract shall not be exclusive to Grandfather.

**6. CONSERVATION MANAGEMENT AND TRAIL MAINTENANCE.** In addition to Grandfather's trail maintenance obligations as provided in the Trail Easement, Grandfather will be permitted, but shall not be obligated, to assist the State of North Carolina with certain conservation management and trail maintenance on the State Park Tract. Grandfather will be permitted, but not obligated, except as required of Grandfather under the Trail Easement, to conduct routine trail maintenance on the State Park Tract on an "as needed" basis; provided that any such maintenance activities shall be consistent with the State's maintenance of its trail system on the State Park Tract and with the Existing Conservation Easements. Grandfather will be permitted, but not obligated, to conduct the types of conservation management activities on the State Park Tract which were conducted prior to Closing by Grandfather (as said conservation management activities are described on attached Exhibit H); provided that any such conservation management activity is consistent with the State's conservation management of the State Park Tract.

**7. ACCESS ACROSS DEVELOPED TRACT TO STATE PARK TRACT FOR THE BENEFIT OF THE STATE.** The Conservation Easement includes a provision for right of access, acceptable to Grandfather and the State of North Carolina, which permits employees and agents of the state of North Carolina to have access across the Developed Tract to the State Park Tract for purposes of management, research and maintenance of the State Park Tract.

8. **TRAIL ACCESS EASEMENT.** The terms of this MOA are in addition to and have no effect on the terms of the Trail Easement. If there is any conflict between the terms of this MOA and the Trail Easement, the Trail Easement shall prevail.