

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the “Agreement”), dated as of [REDACTED], 2023, is by and between Cathance River Education Alliance, Inc. a Maine nonprofit corporation (“CREA”), and Brunswick-Topsham Land Trust, Inc. a Maine nonprofit corporation (“BTLT”). Each of CREA and BTLT is sometimes individually referred to herein as a “party,” and both of them are sometimes collectively referred to herein as the “parties.”

RECITALS

WHEREAS, the Board of Directors of CREA deems it advisable and in the best interests of CREA and the Board of Directors of BTLT deems it advisable and in the best interests of BTLT to consummate the business combination transaction described in this Agreement whereby CREA shall merge with and into BTLT with BTLT as the surviving entity (the “Merger”); and

WHEREAS, the parties hereto desire to provide for certain undertakings, conditions, representations and covenants in connection with the Merger, and the other transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the promises and of the mutual representations and covenants herein contained and intending to be legally bound hereby, the parties hereby agree as follows:

ARTICLE I CERTAIN DEFINITIONS

Section 1.01 Definitions.

Except as otherwise provided herein, as used in this Agreement, the following terms shall have the indicated meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“Approvals” means all consents, waivers, approvals, nonobjections and clearances required to be obtained from or issued by any government agency or other person in order to complete the transactions contemplated hereby.

“Financials” means (i) the reviewed financial statements of each party as of and for the most recently completed fiscal year, and (ii) the interim financial statements of each party as of a date within sixty (60) days of the Merger Closing.

“Material Adverse Effect” shall mean any effect that (i) is material and adverse to the financial condition, results of operations or business of a party and its affiliated entities taken as a whole, or (ii) does or would materially impair the ability of a party to perform its obligations under this Agreement or otherwise materially threaten or materially impede the consummation of the transactions contemplated by this Agreement.

“Plan of Merger” means the Plan of Merger in substantially the form attached hereto as Exhibit A and hereby made a part hereof to be filed with the Maine Secretary of State with Articles of Merger pursuant to Section 904(1)(A) of the Maine Nonprofit Corporations Act (“MNCA”) to effect the Merger.

ARTICLE II THE MERGER AND RELATED MATTERS

Section 2.01 Effects of Merger; Surviving Corporation; Amended Bylaws.

(a) The “Merger Effective Date” shall be that date upon which the articles of merger are accepted for filing by the Secretary of State of the State of Maine, or such other date as otherwise stated in such filed articles of merger, in accordance with Maine law. To the greatest extent practicable, the Merger Effective Date shall be July 1, 2023.

(b) The “Merger Closing” shall be the date and time when each party has executed the Articles of Merger and Plan of Merger, or such later date mutually agreed upon by the Parties. The parties intend that the Merger Closing shall be on or before June 30, 2023, unless extended by written agreement of the parties.

(c) Upon the terms and conditions of this Agreement, including the Plan of Merger, on the Merger Effective Date, CREA shall be merged with and into BTLT; the separate existence of CREA shall cease; BTLT shall be the surviving corporation in the Merger; and all of the property (real, personal and mixed), rights, powers and duties and obligations of CREA shall be taken and deemed to be transferred to and vested in BTLT, without further act or deed; all in accordance with the MNCA.

(d) At the Merger Closing, following fulfillment or waiver by the applicable party of all conditions that relate to actions to be taken at the Merger Closing, Articles of Merger, to which shall be attached the Plan of Merger, shall be executed and filed with the Maine Secretary of State by CREA and BTLT in accordance with the MNCA.

(e) Prior to the Merger Closing, the Board of Directors and the Members of BTLT shall vote on the Amended Bylaws attached hereto as Exhibit B and the Restated Articles of Incorporation, attached hereto as Exhibit C. In the event that the Board of Directors of BTLT does not approve said Amended Bylaws and Restated Articles of Incorporation, then CREA shall have the right to terminate this Agreement and the Merger. The Restated Articles of Incorporation shall be filed with the Maine Secretary of State subsequent to the Merger Closing.

ARTICLE III REPRESENTATIONS OF CREA

CREA represents to BTLT that the statements contained in this Article III are correct and complete as of the date of this Agreement and will be correct and complete as of the Merger Closing (as though made then and as though the Merger Closing were substituted for the date of this Agreement throughout this Article III), except as to any representation which specifically relates to an earlier date, which only need be so correct as of such earlier date.

Section 3.01 Organization.

(a) CREA is a Maine nonprofit corporation organized, validly existing and in good standing under the laws of the State of Maine. CREA has qualified as a tax-exempt public charity under Section 501(c)(3) of the Code.

(b) The minute books of CREA accurately record, in all material respects, all material corporate actions of its board of directors (including committees) through the date of this Agreement.

(c) Prior to the date of this Agreement, CREA has made available to BTLT true and correct copies of its Articles of Incorporation and Bylaws, as amended.

Section 3.02 Authority; No Violation.

(a) CREA has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by CREA and the completion by CREA of the transactions contemplated hereby, up to and including the Merger, have been duly and validly approved by the Board of Directors and the Members of CREA and no other corporate proceedings on the part of CREA are necessary to complete the transactions contemplated hereby, up to and including the Merger. This Agreement has been duly and validly executed and delivered by CREA and constitutes the valid and binding obligations of CREA, enforceable against CREA in accordance with its terms,

subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity.

(b) The execution and delivery of this Agreement by CREA will not (A) conflict with or result in a breach of any provision of the Articles of Incorporation or Bylaws of CREA; (B) violate any statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to CREA or any of its properties or assets; or (C) violate, any lien, security interest, charge or other encumbrance upon any of the properties or assets of CREA.

Section 3.03 Consents.

Except as stated above with respect to approval of the Directors and the Members of CREA, no consents or approvals of, or filings or registrations with, any regulatory authority are necessary, and no consents or approvals of any persons are necessary, or will be, in connection with (i) the execution and delivery of this Agreement by CREA, or (ii) the completion by CREA of the transactions contemplated hereby.

Section 3.04 Finances.

(a) CREA has previously made available to BTLT the CREA Financials. The CREA Financials fairly present in each case in all material respects (subject in the case of the unaudited interim statements to normal year-end adjustments), the financial position, results of operations and cash flows of CREA on a consolidated basis as of and for the respective periods ending on the dates thereof, subject to normal year-end adjustments.

(b) At the date of each balance sheet included in the CREA Financials, CREA did not have any liabilities, obligations or loss contingencies of any nature (whether absolute, accrued, contingent or otherwise) of a type required to be reflected in such CREA Financials or in the footnotes thereto which are not fully reflected or reserved against therein or fully disclosed in a footnote thereto, except for liabilities, obligations and loss contingencies which are not material, individually or in the aggregate, or which were incurred in the ordinary course of business, consistent with past practice, and except for liabilities, obligations and loss contingencies which are within the subject matter of a specific representation herein and subject, in the case of any unaudited statements, to normal, recurring audit adjustments and the absence of footnotes.

(c) The only funds maintained by CREA that are, or could be deemed to be, an "endowment fund" within the meaning of § 5102(2) of the Maine

Uniform Prudent Management of Institutional Funds Act, 13 M.R.S. § 5101 et seq. (“UPMIFA”) are:

(i) the Angels Fund, which has purpose of funding development staff to work on development capacity building efforts, as set forth in the “Campaign for CREA” case statement.; and

(ii) the Swartzmiller Bequest Fund, which has a purpose of supporting CREA’s educational programs.

Except for outstanding grant-restricted funds, all other funds maintained by CREA are not purpose restricted or temporally restricted, and are wholly available for expenditure on a current basis in accordance with CREA’s general charitable and educational purposes.

Section 3.05 Taxes.

CREA has duly filed all federal, state, and local tax returns required to be filed by or with respect to CREA on or prior to the Merger Effective Date (all such returns being accurate and correct in all material respects) and has duly paid or made provisions for the payment of all material federal, state and local taxes which have been incurred by or are due or claimed to be due from CREA by any taxing authority or pursuant to any written tax sharing agreement on or prior to the Merger Effective Date other than taxes or other charges which (i) are not delinquent, (ii) are being contested in good faith, or (iii) have not yet been fully determined. As of the date of this Agreement, there is no audit examination, deficiency assessment, tax investigation or refund litigation with respect to any taxes of CREA, and no claim has been made by any authority in a jurisdiction where CREA does not file tax returns that CREA is subject to taxation in that jurisdiction. CREA has not executed an extension or waiver of any statute of limitations on the assessment or collection of any tax due that is currently in effect. CREA has withheld and paid all taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, or other third party, and CREA has timely complied with all applicable information reporting requirements under the Code and similar applicable state and local information reporting requirements.

Section 3.06 No Material Adverse Effect.

CREA has not suffered any Material Adverse Effect since the date of its last financials shared with BTLT.

Section 3.07 Material Contracts; Defaults.

True and correct copies of all agreements, contracts, arrangements and instruments to which CREA is a party have been made available to BTLT on or before the date hereof, and are in full force and effect on the date hereof and CREA (nor to the knowledge of CREA, any other party to any such contract, arrangement or instrument) has not materially breached any provision of, or is in default in any respect under any term of, any such contract, arrangement or instrument.

Section 3.08 Lease.

CREA is the tenant of a lease agreement with Central Topsham Associates, LLC as the landlord, a true and correct copy of which has been shared with BTLT. CREA does not have any subtenants pursuant to this lease agreement. CREA nor Central Topsham Associates, LLC has not materially breached any provision of, or is in default in any respect under any term of, the lease.

Smoke and Carbon Monoxide Detectors. All smoke and carbon monoxide detectors in CREA-owned or leased buildings meet existing legal requirements and are in working order.

Section 3.09 Insurance Coverage.

CREA currently maintains insurance considered by CREA to be reasonable for its operations. CREA has not received notice from any insurance carrier that (i) such insurance will be canceled or that coverage thereunder will be reduced or eliminated, or (ii) premium costs with respect to such policies of insurance will be substantially increased. There are presently no material claims pending under such policies of insurance and no notices have been given by CREA under such policies. All such insurance is valid and enforceable and in full force and effect, and within the last three (3) years CREA has received each type of insurance coverage for which it has applied and during such periods has not been denied indemnification for any material claims submitted under any of its insurance policies.

Section 3.10 Legal Proceedings.

CREA is not a party to any, and there are no pending or, to the knowledge of CREA, threatened legal, administrative, arbitration or other proceedings, claims (whether asserted or unasserted), actions or governmental investigations or inquiries of any nature: (i) against CREA, (ii) to which CREA's assets are or may be subject, (iii) challenging the validity or propriety of any of

the transactions contemplated by this Agreement, or (iv) which could adversely affect the ability of CREA to perform under this Agreement.

Section 3.11 Compliance With Applicable Law.

(a) CREA is in substantial compliance with all applicable federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders or decrees applicable to it, its properties, assets and deposits, its business, and its conduct of business and its relationship with its employees.

(b) CREA has all material permits, licenses, authorizations, orders and approvals of, and has made all filings, applications and registrations with, all regulatory authorities that are required in order to permit it to conduct its business as presently conducted; all such permits, licenses, certificates of authority, orders and approvals are in full force and effect and, to the knowledge of CREA, no suspension or cancellation of any such permit, license, certificate, order or approval is threatened or will result from the consummation of the transactions contemplated by this Agreement.

(c) CREA has not received any notification or communication from any regulatory authority (i) asserting that CREA is not in material compliance with any of the statutes, regulations or ordinances that such regulatory authority enforces; or (ii) threatening to revoke any license, franchise, permit or governmental authorization that is material to CREA.

Section 3.12 Employee Benefits.

CREA has established no retirement plans or health insurance or other benefit plans for its employees.

Section 3.13 Real Property.

Other than the leasehold interest referenced in Section 3.08 and the ownership interest in the Ecology Center building in Topsham, and the lease of office space at 179 Neptune Drive in Brunswick, CREA does not hold any other real property interests.

Section 3.14 No Documented Intellectual Property

CREA does not own any interest in documented intellectual property such as patents, copyrights, assumed names, servicemarks and trademarks. CREA does own intellectual property in the form of curricula and related educational program materials that will transfer to BTLT as a result of the Merger.

ARTICLE IV REPRESENTATIONS OF BTLT

BTLT represents to CREA that the statements contained in this Article IV are correct and complete as of the date of this Agreement and will be correct and complete as of the Merger Closing (as though made then and as though the Merger Closing were substituted for the date of this Agreement throughout this Article IV), except as to any representation which specifically relates to an earlier date.

Section 4.01 Organization.

BTLT is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Maine. BTLT has qualified as a tax-exempt, public charity under Section 501(c)(3) of the Code.

Section 4.02 Authority; No Violation.

(a) BTLT has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by BTLT and the completion by BTLT of the transactions contemplated hereby have been duly and validly approved by the Board of Directors and the Members of BTLT and no other corporate proceedings on the part of BTLT are necessary to complete the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by BTLT and constitutes the valid and binding obligation of BTLT, enforceable against BTLT in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity.

(b) The execution and delivery of this Agreement by BTLT (will not: (A) conflict with or result in a breach of any provision of the Articles of Incorporation or Bylaws of BTLT; (B) violate any statute, code, ordinance, rule, regulation, judgment, order, writ, decree or injunction applicable to BTLT or any of its properties or assets; or (C) violate, any lien, security interest, charge or other encumbrance upon any of the properties or assets of BTLT.

Section 4.03 Legal Proceedings.

BTLT is not a party to any, and there are no pending or threatened legal, administrative, arbitration or other proceedings, claims (whether asserted or unasserted), actions or governmental investigations or inquiries of any nature that could materially adversely affect the ability of BTLT to perform under this Agreement.

Section 4.04 Financial Statements.

(a) BTLT has previously made available to CREA BTLT Financials. BTLT Financials fairly present in each case in all material respects (subject in the case of the unaudited interim statements to normal year-end adjustments), the financial position, results of operations and cash flows of BTLT on a consolidated basis as of and for the respective periods ending on the dates thereof, subject to normal year-end adjustments.

(b) At the date of each balance sheet included in BTLT Financials, BTLT did not have any liabilities, obligations or loss contingencies of any nature (whether absolute, accrued, contingent or otherwise) of a type required to be reflected in such BTLT Financials or in the footnotes thereto which are not fully reflected or reserved against therein or fully disclosed in a footnote thereto, except for liabilities, obligations and loss contingencies which are not material, individually or in the aggregate, or which were incurred in the ordinary course of business, consistent with past practice, and except for liabilities, obligations and loss contingencies which are within the subject matter of a specific representation herein and subject, in the case of any unaudited statements, to normal, recurring audit adjustments and the absence of footnotes.

Section 4.05 Taxes.

BTLT has duly filed all federal, state, and local tax returns required to be filed by or with respect to BTLT on or prior to the Merger Effective Date (all such returns being accurate and correct in all material respects) and has duly paid or made provisions for the payment of all material federal, state and local taxes which have been incurred by or are due or claimed to be due from BTLT by any taxing authority or pursuant to any written tax sharing agreement on or prior to the Merger Effective Date other than taxes or other charges which (i) are not delinquent, (ii) are being contested in good faith, or (iii) have not yet been fully determined. As of the date of this Agreement, there is no audit examination, deficiency assessment, tax investigation or refund litigation with respect to any taxes of BTLT, and no claim has been made by any authority in a jurisdiction where BTLT does not file tax returns that BTLT is subject to taxation in that jurisdiction. BTLT has not executed an extension or waiver of any statute of limitations on the assessment or collection of any tax due that is currently in effect. BTLT has withheld and paid all taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, or other third party, and BTLT has timely complied with all applicable information reporting requirements under the Code and similar applicable state and local information reporting requirements.

Section 4.06 No Material Adverse Effect.

BTLT has not suffered any Material Adverse Effect since the date of its last financials shared with CREA.

Section 4.07 Insurance Coverage.

BTLT currently maintains insurance considered by BTLT to be reasonable for its operations. BTLT has not received notice from any insurance carrier that (i) such insurance will be canceled or that coverage thereunder will be reduced or eliminated, or (ii) premium costs with respect to such policies of insurance will be substantially increased. There are presently no material claims pending under such policies of insurance and no notices have been given by BTLT under such policies. All such insurance is valid and enforceable and in full force and effect, and within the last three (3) years BTLT has received each type of insurance coverage for which it has applied and during such periods has not been denied indemnification for any material claims submitted under any of its insurance policies.

Section 4.08 Compliance With Applicable Law.

(a) BTLT is in substantial compliance with all applicable federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders or decrees applicable to it, its properties, assets and deposits, its business, and its conduct of business and its relationship with its employees.

(b) BTLT has all material permits, licenses, authorizations, orders and approvals of, and has made all filings, applications and registrations with, all regulatory authorities that are required in order to permit it to conduct its business as presently conducted; all such permits, licenses, certificates of authority, orders and approvals are in full force and effect and, to the knowledge of BTLT, no suspension or cancellation of any such permit, license, certificate, order or approval is threatened or will result from the consummation of the transactions contemplated by this Agreement.

(c) BTLT has not received any notification or communication from any regulatory authority (i) asserting that BTLT is not in material compliance with any of the statutes, regulations or ordinances which such regulatory authority enforces; or (ii) threatening to revoke any license, franchise, permit or governmental authorization which is material to BTLT.

ARTICLE V
COVENANTS OF THE PARTIES

Section 5.01 Conduct of Programs.

(a) From the date of this Agreement to the Merger Closing, each party will conduct its business and engage in transactions, only toward its maintaining its current programs and services, consistent with prudent practices and policies, except as otherwise required or contemplated by this Agreement or with the written consent of the other party. Except as otherwise stated in this Agreement or as consented to or approved by the other party in writing (which consent or approval shall not unreasonably be withheld or delayed) or as contemplated or required by this Agreement, each party will not:

- (i) amend any provision of its Articles of Incorporation or Bylaws;
- (ii) hire any new employee, except hirings by BTLT or CREA to fill any vacant positions;
- (iii) merge or consolidate with any other corporation; sell or lease all or any substantial portion of its assets or business; make any acquisition of all or any substantial portion of the business or assets of any other Person, firm, association, corporation or business organization;
- (iv) enter into any agreement, arrangement or commitment not made in the ordinary course of its programs, except that CREA may obtain an extended reporting period endorsement or tail under its existing directors' and officers' liability insurance policy covering the period from and including the Merger Effective Date to the date which is not later than three (3) years after the Merger Effective Date;
- (v) change its method of accounting in effect as of the date of this Agreement, except as required by changes in laws or regulations, or by GAAP concurred in by that party's independent certified public accountants; or
- (vi) take any action that would result in any of the representations of either party contained in this Agreement not to be true and correct in any material respect as of the Merger Effective Date or that could reasonably result in a material delay in consummation of the transactions contemplated hereby.

Section 5.02 Access.

Each party shall disclose and make available to the other party all of its books, papers and records relating to the assets, properties, operations,

obligations and liabilities, including, but not limited to, all books of account (including the general ledger), tax records, minute books of meetings of boards of directors (and any committees thereof) (other than any books, papers, records and minutes relating to this Agreement and the transactions contemplated hereby), organizational documents, bylaws, material contracts and agreements, filings with any Regulatory Authority, accountants' work papers, litigation files, plans affecting employees, and any other business activities or prospects in which it may have a reasonable interest (provided that neither party shall not be required to provide access to any information that would violate its attorney-client privilege or would violate applicable law or regulation). Each party shall make its respective officers, employees and agents and authorized representatives (including counsel and independent registered public accountants) reasonably available to confer with the other party and its representatives. In addition, from the date of this Agreement through the Merger Closing, each party shall permit employees of the other party reasonable access to its information.

Section 5.03 Taking of Necessary Action.

CREA and BTLT shall each use its best efforts in good faith to take or cause to be taken all action necessary or desirable on its part using its best efforts so as to permit completion of the Merger and the other transactions contemplated by this Agreement, including, without limitation, obtaining the consent or approval of each person whose consent or approval is required for consummation of the transactions contemplated hereby (including assignment of leases without any change in terms). No party hereto shall take, or cause, or to the best of its ability permit to be taken, any action that would substantially impair the prospects of completing the Merger pursuant to this Agreement; provided that nothing herein contained shall preclude CREA or BTLT from exercising its rights under this Agreement.

Section 5.04 Duty to Advise.

Each party shall promptly advise the other party in writing of any change or event having a Material Adverse Effect on it or that it believes would or would be reasonably likely to cause or constitute a material breach of any of its representations or covenants set forth herein.

Section 5.05 Additional Undertakings.

From and after the date of this Agreement and until such time as the Merger Effective Date:

(i) *Maintenance of Insurance.* Each party shall maintain for itself insurance in such amounts as are reasonable to cover such risks as are

customary in relation to the character and location of its properties and the nature of its business;

(ii) *Maintenance of Books and Records.* Each party shall maintain books of account and records in accordance with GAAP applied on a basis consistent with those principles used in preparing the financial statements heretofore delivered;

(iii) *Taxes.* Each party shall file all federal, state, and local tax returns required to be filed by it on or before the date such returns are due (including any extensions) and pay all taxes shown to be due on such returns on or before the date such payment is due, except those being contested in good faith;

(iv) *Further Discussions.* Each party will promptly notify the other party of any material change in the normal course of its business or in the operation of its properties and, to the extent permitted by applicable law, of any governmental complaints, investigations or hearings (or communications indicating that the same may be contemplated), or the institution or the threat of material litigation.

(v) *Filings and Approvals.* Each party shall cooperate with the other in the preparation and filing, as soon as practicable, of (A) all documents necessary to obtain any other approvals, consents, waivers and authorizations required to effect the completion of the Merger and the other transactions contemplated by this Agreement, and (B) all other documents contemplated by this Agreement.

(vi) *Public Announcements.* Each party shall cooperate and cause their respective officers, directors, employees and agents to cooperate in good faith, consistent with their respective legal obligations, in the preparation and distribution of, and mutually agree upon the form and content of, any press release related to this Agreement and the transactions contemplated hereby, and any other public disclosures related thereto, including without limitation internal announcements and client disclosures, but nothing contained herein shall prohibit any party from making any disclosure that its counsel deems necessary, provided that the disclosing party notifies the other party reasonably in advance of the timing and contents of such disclosure.

(vii) *Employment Matters.* BTLT shall offer employment to, and if accepted shall employ, the following individuals in the following positions as of the Merger Effective Date, upon salary and other terms mutually agreeable to BTLT and said individuals, and subject to BTLT's personnel policies:

- (a) Caroline Eliot in the position of Associate Director and Director of Education & Community Engagement;
- (b) Jennifer Mueller in the position of Camp Director; and
- (c) Sarah Rodgers and Carey Truebe, as Educators.

(viii) *BTLT Board of Directors.* Upon approval by BTLT's Board of Directors and BTLT's Members, BTLT shall add up to five new individuals to its Board of Directors, said individuals to be the then-current CREA President as well as up to four other then-current CREA Directors identified by CREA at least sixty (60) days before the Merger Closing.

(ix) *BTLT Committees.* BTLT and CREA anticipate that certain CREA Directors or other volunteers will join various BTLT committees, depending on the needs of such committees and the wishes and availability of individuals. Although aspirations have been set forth in a Unification Plan approved by each party's Board, this Agreement does not require that any particular individuals or any particular number of individuals shall join any such committees.

(x) *Advisory Council.* The then-current members of CREA's Advisory Council shall be invited to serve as members of BTLT's Advisory Council as of the Merger Effective Date.

(xi) *Membership Matters.* As of the Merger Effective Date, all members of CREA shall be deemed members of BTLT, at the established membership levels set by BTLT, and the parties shall coordinate the transfer of said memberships so that dues requests are not untimely sent.

Section 5.06 Post-Merger Undertakings

- (i) *Treatment of Funds.* After the Merger Effective Date, BTLT shall continue to honor all purpose restrictions applicable to the Angels Fund and the Swartzmiller Bequest Fund. In addition, BTLT shall designate all cash and securities assets transferred from CREA as a purpose-restricted fund to be used in support of BTLT's educational programs.
- (ii) BTLT shall file an assumed name form with the Maine Secretary of State to protect the use of "Cathance River Education Alliance." BTLT shall use the name "Cathance River Education Alliance or CREA" in connection with CREA's signature camp and school programs for at least 10 years from the Effective Date, or unless the BTLT Board unanimously approves an earlier cessation of use.

ARTICLE VI CONDITIONS

Section 6.01 Conditions to CREA's Obligations under this Agreement.

The obligations of CREA hereunder shall be subject to satisfaction as of or prior to the Merger Effective Date of each of the following conditions, unless waived by BTLT pursuant to Section 8.03 hereof:

(a) *Corporate Proceedings.* All action required to be taken by, or on the part of, BTLT to authorize the execution, delivery and performance of this Agreement, and the consummation of the Merger, shall have been duly and validly taken by BTLT, and CREA shall have received certified copies of the resolutions evidencing such authorizations;

(b) *Covenants.* The obligations and covenants of BTLT required by this Agreement to be performed by BTLT as of or prior to the Merger Effective Date shall have been duly performed and complied with in all respects;

(c) *Representations.* The representations of BTLT in this Agreement shall be true and correct as of the date of this Agreement, and except to the extent such representations speak as of an earlier date, as of the Merger Effective Date;

(d) *Approvals.* BTLT shall have received all approvals necessary to effect the Merger without the imposition of any condition that CREA reasonably determines in good faith would materially reduce the benefits of the Merger to such a degree that CREA would not have entered into this Agreement had such condition been known at the date hereof, and all notice and waiting periods required thereunder shall have expired or been terminated;

(e) *No Injunction.* There shall not be in effect any order, decree or injunction of a court or agency of competent jurisdiction that enjoins or prohibits consummation of the transactions contemplated hereby;

(f) *No Material Adverse Effect.* Since the date of the information accounted for on the Financials, there shall not have occurred any Material Adverse Effect with respect to BTLT.

(g) *Additional Board Directors.* BTLT complies with the provisions of Section 5.05(viii) with respect to adding additional Board Directors.

(h) *Amended Bylaws.* BTLT complies with the provisions of Section 2.01(c) with respect to amending its Bylaws.

Section 6.02 Conditions to BTLT's Obligations under this Agreement.

The obligations of BTLT hereunder shall be subject to satisfaction as of or prior to the Merger Effective Date of each of the following conditions, unless waived by CREA pursuant to Section 8.03 hereof:

(a) *Corporate Proceedings.* All action required to be taken by, or on the part of, CREA to authorize the execution, delivery and performance of this Agreement, and the consummation of the Merger, shall have been duly and validly taken by CREA, and BTLT shall have received certified copies of the resolutions evidencing such authorizations;

(b) *Covenants.* The obligations and covenants of CREA required by this Agreement to be performed as of or prior to the Merger Effective Date shall have been duly performed and complied with in all respects;

(c) *Representations.* The representations of CREA in this Agreement shall be true and correct as of the date of this Agreement and (except to the extent such representations speak as of an earlier date) as of the Merger Effective Date;

(d) *Approvals.* CREA shall have received all approvals necessary to effect the Merger, without the imposition of any condition that BTLT reasonably determines in good faith would materially reduce the benefits of the Merger to such a degree that BTLT would not have entered into this Agreement had such condition been known at the date hereof, and all notice and waiting periods required thereunder shall have expired or been terminated;

(e) *No Injunction.* There shall not be in effect any order, decree or injunction of a court or agency of competent jurisdiction that enjoins or prohibits consummation of the transactions contemplated hereby;

(f) *No Material Adverse Effect.* Since the date of the information accounted for on the Financials, there shall not have occurred any Material Adverse Effect with respect to CREA.

**ARTICLE VII
TERMINATION, WAIVER AND AMENDMENT**

Section 7.01 Termination.

This Agreement may be terminated at any time prior to the Merger Effective Date:

- (a) by mutual written consent of the parties authorized by their respective Boards of Directors;

(b) by written notice of one party to the other in the event that one or more of the conditions set forth in Article VI are not satisfied.

(c) by CREA or BTLT if the Merger Closing shall not have occurred on or prior to June 30, 2023, except that in the event that both parties mutually agree in writing to an extension.

Section 7.02 Effect of Termination.

If this Agreement is terminated pursuant to Section 7.01 hereof, this Agreement shall forthwith become void, and there shall be no further liability on the part of BTLT or CREA to the other, except that no party shall be relieved or released from any liabilities or damages arising out of its willful breach of any provision of this Agreement.

**ARTICLE VIII
MISCELLANEOUS**

Section 8.01 Expenses.

Except as otherwise provided in this Agreement, each party shall bear and pay their separate costs and expenses incurred by either party in connection with the transactions contemplated by this Agreement, including fees and expenses of financial advisors, consultants, accountants and counsel, and other costs and expenses.

Section 8.02 Non-Survival of Representations.

All representations shall terminate on the Merger Effective Date.

Section 8.03 Amendment, Extension and Waiver.

Subject to applicable law, at any time prior to the consummation of the transactions contemplated by this Agreement, the parties may (a) amend this Agreement, (b) extend the time for the performance of any of the obligations or other acts of either party hereto, (c) waive any inaccuracies in the representations contained herein or in any document delivered pursuant hereto, or (d) waive compliance with any of the agreements or conditions contained in Articles V and VI hereof or otherwise.

Section 8.04 Entire Agreement.

This Agreement, including the documents and other writings referred to herein or delivered pursuant hereto, contains the entire agreement and understanding of the parties with respect to its subject matter. This Agreement supersedes all prior arrangements and understandings between the parties,

both written and oral with respect to its subject matter. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors. Nothing in this Agreement is intended to confer upon any Person, other than the parties hereto and their respective successors, any rights, remedies, obligations or liabilities.

Section 8.05 No Assignment.

Neither party hereto may assign any of its rights or obligations hereunder to any other person, without the prior written consent of the other party hereto.

Section 8.06 Notices.

All notices or other communications hereunder shall be in writing and shall be deemed given if delivered personally, or mailed electronically at the email address below or mailed by prepaid registered or certified mail (return receipt requested, addressed as follows:

- (a)** If to BTLT: Attn: Angela Twitchell, angela@btl.org, or 179 Neptune Drive, Suite 200, Brunswick, Maine 04011

with a copy to:

Robert H. Levin
rob@roblevin.net
94 Beckett Street, 2nd Flr.
Portland, Maine 04101
Phone: 207-774-8026

- (b)** If to CREA, to: Attn: Caroline Eliot, director@creamaine.org, or PO Box 187 Topsham, ME 04086

with a copy to:

Robert H. Levin
rob@roblevin.net
94 Beckett Street, 2nd Flr.
Portland, Maine 04101
Phone: 207-774-8026

Section 8.07 Captions.

The captions contained in this Agreement are for reference purposes only and are not part of this Agreement.

Section 8.08 Counterparts.

This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

Section 8.09 Severability.

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

Section 8.10 Governing Law.

This Agreement shall be governed by and construed in accordance with the domestic internal law (including the law of conflicts of law) of the State of Maine.

Section 8.11 Joint Legal Representation.

BTLT and CREA have agreed to be represented jointly for legal purposes by Robert H. Levin, Esq. Each party understands that the potential exists for conflicts of interest to arise between them, in which event Attorney Levin may be required to withdraw from said joint representation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year indicated below, the latter of which shall be the date of this Agreement.

Brunswick-Topsham Land Trust, Inc.

By: _____
Name: Emily Swan
Title: President

Date

Cathance River Education Alliance, Inc.

By: _____
Name: Ellen Trout Bennett
Title: President

Date

EXHIBIT A

PLAN OF MERGER

of

Cathance River Education Alliance, Inc.

Into

Brunswick-Topsham Land Trust, Inc.

pursuant to Sections 901 to 907 of the Maine Nonprofit Corporation Act
("MNCA")

WHEREAS, Cathance River Education Alliance, Inc., a Maine nonprofit corporation ("CREA") and Brunswick-Topsham Land Trust, Inc., a Maine nonprofit corporation (the "BTLT") entered into an Agreement and Plan of Merger dated [REDACTED], 2023 (the "Agreement");

WHEREAS, the Agreement provides for the merger of CREA with and into BTLT;

WHEREAS, the Agreement has been approved by the respective Boards of Directors and memberships of each party;

NOW THEREFORE, pursuant to this Plan of Merger, CREA will be merged with and into BTLT (the "Merger"). In the Merger, BTLT will be the surviving corporation. The terms and conditions of the Merger are as set forth below.

1. The Merger. In accordance with the MNCA, upon the Merger Effective Date, CREA shall be merged with and into BTLT; the separate existence of CREA shall cease; BTLT shall be the surviving corporation in the Merger (the "Surviving Corporation"); and all of the property (real, personal and mixed), rights, powers and duties and obligations of CREA shall be taken and deemed to be transferred to and vested in BTLT, as the Surviving Corporation in the Merger, without further act or deed; all in accordance with the MNCA.

2. Merger Closing; Merger Effective Date. The Merger shall close when each party has executed the Articles of Merger and Plan of Merger, or such later date mutually agreed upon by the Parties (the "Merger Closing"). The Merger shall become effective when the Articles of Merger are duly filed with the Secretary of State of the State of Maine, or at such later time and date as specified in the Articles of Merger (the time and date the Merger becomes effective being referred to as the "Merger Effective Date").

3. Effects of the Merger. The Merger shall have the effects set forth in Section 905 of the MNCA (or any successor provision thereto). The Surviving Corporation shall be responsible for all of the liabilities of every kind and description of CREA as of the Merger Effective Date. Any action or proceeding, whether civil, criminal or administrative, pending by or against CREA shall continue as if the Merger had not taken place, and the Surviving Corporation shall be substituted in such action or proceeding. The Surviving Corporation's identity, existence, purposes, rights, immunities, properties, liabilities and obligations shall be unaffected and unimpaired by the Merger, except as expressly provided herein.

4. Supplementary Action. If at any time after the Merger Effective Date, any further assignments or assurances in law or any other things are necessary or desirable to vest or to perfect or confirm of record in the Surviving Corporation the title to any property or rights of CREA, or otherwise to carry out the provisions of this Plan of Merger, the Officers and Directors of the Surviving Corporation are hereby authorized and empowered on behalf of each such corporation, in the name of and on behalf of each such corporation as appropriate, to execute and deliver any and all things necessary or proper to vest or to perfect or confirm title to such property or rights in the Surviving Corporation, and otherwise to carry out the purposes and provisions of this Plan of Merger.

Exhibit B

**AMENDED BYLAWS OF THE
SURVIVING CORPORATION**

TO BE ATTACHED

Exhibit C

RESTATED ARTICLES OF INCORPORATION

TO BE ATTACHED