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WARREN & SINKLER
P O BOX 1254
CHARLESTON SC 29402

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KARLA DADDIECO
REGISTER OF DEEDS
COLLETON COUNTY SC
12-20-2011 01:05 PM.
REC FEE: 28.00

STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 14 day of December, 2011, by H. Anthony Ittleson (hereinafter "Grantor"), having an address at 1185 Poco Sabo Lane, Green Pond, SC, 29446, in favor of the Lowcountry Open Land Trust, Inc. (hereinafter "Grantee"), a South Carolina charitable corporation and a publicly supported corporation organized and operated under §501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter the "Code") and not a private foundation under Code §509, with a business address at 80 Alexander Street, Charleston, SC 29403.

WHEREAS, Grantor is the sole owner in fee simple of certain real property known as "Poco Sabo Plantation" containing approximately one thousand six hundred and fifty one (1,651) acres (TMS #s 273-00-00-007, 273-00-00-008 and 284-00-00-013), in Colleton County, South Carolina, more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein by this reference (hereinafter the "Protected Property"); and

WHEREAS, the Protected Property possesses significant ecological and natural resources, water quality protection, and open space and scenic value of great importance to Grantor, to Grantee and to the people of South Carolina and this nation; and

WHEREAS, the Protected Property lies within the nearly 1.7 million acres of the Ashepoo, Combahee, and Edisto (ACE) Basin Focus Area featuring diverse ecosystems and a wealth of wildlife, all of which is the focus of a consortium of private landowners, conservation groups, and federal and state agencies, working to protect and enhance the region's natural resources and traditional commercial and recreational uses; and

WHEREAS, the Protected Property has been deemed an ecologically significant property by the ACE Basin Project, launched by South Carolina Department of Natural Resources, the U.S. Fish and Wildlife Service, various private and non-profit organizations, and private landowners, and operated under the ACE Basin Task Force. The mission of the ACE Basin Project is to maintain the natural character of the basin by promoting wise resource management on private lands and protecting strategic tracts by conservation agencies. A major goal of the protection efforts is to ensure that traditional uses such as farming, forestry, recreational hunting and commercial fishing will continue in the area; and

WHEREAS, the ACE Basin is recognized by the Edisto River Basin Resource Assessment, sponsored by the National Oceanic and Atmospheric Administration, as a system supporting numerous high quality wetland plant communities and highly intact, extensive riparian habitats. The ACE Basin is one of the largest relatively undeveloped wetland ecosystems remaining along the Atlantic Coast. It has been identified as a unique coastal ecosystem of national and regional significance under the National Wetlands Priority Conservation Plan. The habitats of the ACE Basin are exceptionally diverse and rich supporting more than 267 species of terrestrial and aquatic birds, 83 species of reptiles and amphibians, 20 species of mammals, and 130 species of fish and shellfish. Included in this tremendous array of wildlife, the ACE Basin provides nesting, foraging, and wintering habitat for a number of endangered and threatened species; and

WHEREAS, the ACE Basin Focus Area of South Carolina has suffered loss in recent years of critical ecosystems, scenic property, island hummocks and small islands, wetlands, natural forests, wildlife habitat, prime farm land and timber land, and other natural resources from increasing commercial and residential development; and

WHEREAS, the lower ACE Basin watershed is identified as a priority site under the 1992 Emergency Wetlands Resources Act's Southeast Regional Wetlands Concept Plan; and

WHEREAS, the protection of this property is pursuant to the SC right-to-farm law (SC Code §46-45-10) which states in part "The policy of the State is to conserve, protect, and encourage the development and improvement of its agricultural land and facilities for the production of food and other agricultural products"; and

WHEREAS, the protection of this property is pursuant to the SC agricultural use exemption (SC Code §12-43-220) which provides a preferential tax exemption for agricultural land in order for such lands to remain in productive agricultural uses; and

WHEREAS, the preservation of open space (including farm and forest land) is recognized by the Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. 4201, *et seq.*, whose purpose is "to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to ensure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland"; and

WHEREAS, the Protected Property is adjacent to other protected lands including Lavington, approximately 794 acres, Lavington Plantation, approximately 2,324 acres, and My Place, approximately 38 acres, all protected by Lowcountry Open Land Trust; Donnelley Wildlife Management Area, approximately 7,224 acres owned by the State of South Carolina; and is located approximately 360 feet from White House Plantation, approximately 456 acres protected by The Nature Conservancy, and is a part of the more than 200,000 acres of conserved land in the ACE Basin; and

WHEREAS, the Protected Property is situated on and prominently visible by the public from Mt. Olive Road, having approximately 4,130 feet of primarily forested road frontage, is situated on and prominently visible by the public from Bennetts Point Road, having approximately 8,470 feet of primarily forested road frontage, is situated on and prominently visible by the public from Ashepoo River, having approximately 4,560 feet of scenic water frontage, and is situated and prominently visible from Beef Creek, having over 1 mile of scenic water frontage; and

WHEREAS, the Protected Property has a diversity of relatively natural habitats including forested and non-forested wetlands, planted pine, mixed pine hardwood, open fields and pastures, mixed upland forest, and freshwater ponds, all of which can support a variety of floral and faunal species; and

WHEREAS, the Protected Property provides a diversity, quality, and combination of natural habitats significant to wildlife habitat functions including feeding, nesting and roosting areas for migratory songbirds and ground-nesting birds, and also including feeding, breeding and resting areas for native small and large game and non-game mammals; and

WHEREAS, the Protected Property contains habitat to support threatened or endangered species and species of concern which have known or highly possible occurrences in Colleton County including but not limited to the Bald eagle (*Haliaeetus leucocephalus*), Wood stork (*Mycteria americana*), Rafinesque's big-eared bat (*Corynorhinus rafinesquii*), Southern flying squirrel (*Glaucomys volans*), Eastern fox squirrel (*Sciurus niger*), Mississippi kite (*Ictinia mississippiensis*), American swallow-tailed kite (*Elanoides forficatus*), Prothonotary warbler (*Protonotaria citrea*), Osprey (*Pandion haliaetus*) Pine woods tree frog (*Hyla femoralis*), South Carolina slimy salamander (*Plethodon glutinosus veriolatus*), Canebrake rattlesnake (*Crotalus horridus*), Eastern diamondback rattlesnake (*Crotalus adamonteus*), Florida softshell turtle (*Apalone ferox*), American alligator (*Alligator mississippiensis*), Eastern pigmy blue butterfly (*Brephidium isophthalma*), and numerous other species listed in the baseline documentation report ; and

WHEREAS, the Protected Property contains forested and non-forested wetlands, which function to improve water quality by providing for nutrient uptake and sediment deposition from runoff draining from upstream lands, and also provide many wildlife habitat components such as breeding grounds, nesting sites and other critical habitat for a variety of fish and wildlife species as well as the unique habitat requirements of many threatened and endangered plants and animals; and

WHEREAS, in particular, the Protected Property in its existing condition contributes very little nonpoint source pollution to the nearby waterways due to the amount of vegetation, the presence of forested wetlands that provide for nutrient uptake and sediment deposition, as well as the low percentage of impervious surface that reduces sources of pollution and nutrient loading; and

WHEREAS, the specific Conservation Values, as defined below, are summarized hereunder and documented in a report on file at the **Grantee's** office and incorporated herein by this reference (hereinafter the "Baseline Documentation"), which consists of maps, reports and photographs (including 2006 NAPP Photos, 2009 NAIP Photos and on-site photographs taken by a representative of the **Grantee**), and the parties agree that the Baseline Documentation provides, collectively, an accurate representation of the Protected Property at the time of this grant and is intended to serve as an objective point of reference from which to monitor compliance with the terms of this grant; and

WHEREAS, **Grantor** believes that through the careful use of a conservation easement, the resources, habitat, beauty and unique ecological character of the Protected Property can be protected in a manner that permits continuing private ownership of land and its continued use and enjoyment; and

WHEREAS, **Grantor** intends to preserve and protect the Conservation Values, as defined below, in perpetuity; and

WHEREAS, **Grantor** is willing to forego forever the right to fully exploit the financial potential of the Protected Property by encumbering the Protected Property with a conservation easement; and

WHEREAS, by act of the General Assembly of the State of South Carolina, as enacted in South Carolina Code Ann. (1976, as amended) (hereinafter the "SC Code") §27-8-10, *et seq.* (The South Carolina Conservation Easement Act of 1991) (hereinafter the "Act"), South Carolina recognizes and authorizes the creation of conservation restrictions and easements; and as described in SC Code §27-8-20, also recognizes and authorizes **Grantee** to hold conservation easements; and

WHEREAS, this Easement is pursuant to the Act by having the purposes, as outlined in the Act, stated below:

- (A) "retaining or protecting natural, scenic, or open-space aspects of real property";
- (B) "ensuring the availability of real property for agricultural, forest, recreational, educational, or open-space use";
- (C) "protecting natural resources";
- (D) "maintaining or enhancing air or water quality";

WHEREAS, **Grantor** and **Grantee** recognize the natural, scenic, aesthetic, and special character and opportunity for enhancement of the Protected Property, and have the common purpose of the conservation and protection in perpetuity of the Protected Property as "a relatively natural habitat of fish, wildlife or plants or similar ecosystem" as that phrase is used in Code §170(h)(4)(A)(ii) and "open space (including farmland and forest land)" as that phrase is used in Code §170(h)(4)(A)(iii) and in the regulations promulgated thereunder by the United States Department of the Treasury (hereinafter "Treasury Regulations"). **Grantor** and **Grantee** agree these purposes can be accomplished by voluntarily placing restrictions upon the use of the Protected Property and by providing for the transfer from the **Grantor** to the **Grantee** of affirmative rights for the protection of the Protected Property so as to be considered a "qualified conservation contribution" as such term is defined in Code §170(h) and the Treasury Regulations promulgated thereunder; and

WHEREAS, the **Grantee** is a corporation whose purposes and powers include one or more of the purposes set forth in SC Code §27-8-20(1) authorizing **Grantee** to be a holder of conservation easements as provided for by the Act; and, **Grantee** is a publicly supported, tax-exempt, nonprofit corporation organized and operated under Code §501(c)(3) dedicated to the preservation of the irreplaceable natural and historical resources of the South Carolina Lowcountry landscape by protecting significant lands, waters and vistas and is not a private foundation under Code §509;

NOW, THEREFORE, in consideration of the above and in further consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to §§170(h) and 2031(c) of the Code and pursuant to the laws of the State of South Carolina, the **Grantor** hereby voluntarily grants and conveys to **Grantee** a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth (hereinafter the "Easement"). **Grantor** herein declares that the Protected Property shall be held,

transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements hereinafter set forth, which covenants, conditions, restrictions and easements shall be deemed to run with the land in perpetuity and to be a burden on the Protected Property in perpetuity.

1. **Purposes.** The purposes of this Easement (hereinafter the "Purposes") are as follows:

(A) To protect and preserve the Conservation Values which are defined as follows:

(I) Protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem within the meaning of Code §170(h)(4)(A)(ii) which will yield a significant public benefit, including the protection of habitats and water quality and the public benefits described in the recitals to this Easement; and

(II) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(I) for the scenic enjoyment of the general public which will yield a significant public benefit, including the opportunities for scenic enjoyment and the public benefits described in the recitals to this Easement; and

(III) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(II) pursuant to clearly delineated Federal, state, or local governmental conservation policies which will yield a significant public benefit, including the policies and public benefits described in the recitals to this Easement; and

(B) To prevent any use or activity that will significantly impair the Conservation Values, subject to the rights and privileges reserved below by **Grantor**; and

(C) To allow the continuation of historic and traditional uses and activities as well as limited new uses that would not significantly impair or degrade the Conservation Values.

2. **Rights of Grantee.** Grantor hereby conveys the following rights to the Grantee:

(A) **Right of Visual Access.** To have visual access to the Protected Property, provided that such right shall not be construed to permit general public access over or upon the Protected Property;

(B) **Right to Monitor.** To enter upon the Protected Property in a reasonable manner, at reasonable times, with reasonable notice, in order to monitor compliance with the Easement and to further document natural and manmade features of the Protected Property. The Grantee shall limit entry to annual visits (after completion of the Baseline Documentation) unless the Grantee has reason to believe there is a violation of the terms of this Easement. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property;

(C) **Right to Prevent Inconsistent Uses.** To prevent Grantor or third parties from conducting any activity or use inconsistent with the Purposes;

(D) **Right to Require Restoration.** To require Grantor to restore such Conservation Values that may be damaged by any uses or activities prohibited by this Easement, or any activity or use inconsistent with the Purposes to include third party activities; and

(E) **Right of Discretionary Consent.** If, owing to unforeseen circumstances, any of the uses or activities prohibited under this Easement are deemed desirable by both the Grantor and the Grantee, the Grantee may, in its sole discretion, give permission for such activities, subject to such limitations as it deems necessary or desirable and provided that:

I. The activities will not adversely affect the qualification of this Easement as a "qualified conservation easement" under any applicable laws, including §§170(h) and 2031(c) of the Code or the Act.

II. The activities will not adversely affect the "tax exempt" status of the Grantee under any applicable laws, including §501(c)(3) of the Code and Treasury Regulations promulgated thereunder.

III. The activities will not adversely affect the Conservation Values.

IV. In no case shall the Grantee or Grantor have the right or power to agree to any activities that would result in the termination of this Easement.

3. **Definitions.** For the purposes of this Easement, Grantor and Grantee agree that those bold-faced terms that appear throughout this Easement shall be defined as follows:

Agricultural Activities shall be defined as activities directly related to the production of plant or animal products on the Protected Property, including crop production, animal husbandry, floriculture and horticulture, in a manner that preserves the long-term productivity of the soil. Permitted activities shall not include **Feedlots**, but shall include animal production facilities/areas. Notwithstanding the above, aquaculture and/or mariculture activities must have **Approval**.

Agricultural Structure shall be defined as any building designed or used in the conduct of permitted **Agricultural Activities**, not including any structure used as a dwelling for human beings.

Approval shall be defined as the prior written consent of the Grantee to permit Grantor to exercise certain rights described in Paragraphs 4 and 5, or to undertake any activity otherwise prohibited by this Easement. The rationale for requiring the Grantor to receive **Approval** prior to undertaking certain permitted and all prohibited activities is to afford Grantee an adequate opportunity to evaluate the activities in question to ensure that they are designed and carried out in a manner that is not inconsistent with the Purposes of this Conservation Easement. **Approval** shall not be unreasonably withheld by the Grantee.

Building Height shall be measured, for the purposes of any permitted structure, from ground elevation or the legal building elevation within a Federal Emergency Management Agency (or successor agency) flood zone, whichever is greater, to the top of the highest structural component, excluding chimneys, antennas and weather vanes.

Designated Building Area shall be defined as one (1) of three (3) areas, two (2) of which shall be no larger than approximately five (5) acres in size, and one (1) approximately sixty seven (67) acres in size, designated for the siting of all **Residential Structures, Agricultural Structures and Related Outbuildings**. The location and configuration of the five (5) acre **Designated Building Areas** shall be at the Grantor's discretion, subject to **Approval**. The location and configuration of the sixty seven (67) acre **Designated Building Area** is defined as the property boundary existing for TMS #273-00-00-008 at the time of grant of this Easement (as shown on that certain plat dated December 5, 2011 and recorded in Plat Book 849 at Page 5 as well as in Exhibit "C" of this Easement and includes at the time of grant of this Easement four (4) existing **Residential Structures** (main plantation house, yellow guest house, green guest house and plantation manager's house), existing **Agricultural Structures and Related Outbuildings** (including tank shed, pasture shed, barn shed, barn, kennel, pens, greenhouse, two pump houses and exercise pavilion), as well as gardens, ponds, cemeteries, roadways, and improvements historically associated with those structures, all as documented in the Baseline Documentation Report. These existing structures may be maintained, repaired, improved, removed or replaced, and additional structures can be built, subject to the Structural Limitations outlined in Paragraph 5(B) and any other restrictions and limitations within this Easement.

Feedlot shall be defined as any confined area or facility for feeding livestock for commercial purposes.

Forest Management Plan shall be defined as a written plan subject to periodic updates, on file with the **Grantee** and agreed upon by both **Grantor** and **Grantee**, which outlines **Forest Management Practices** on the Protected Property.

Forest Management Practices shall be defined as the production, improvement and maintenance of forest lands for timber production and commercial harvesting, wildlife management, aesthetics or any other purpose. **Forest Management Practices** include silvicultural practices, which are used to control the establishment, growth, composition, health, quality and utilization of forestlands for multiple-use purposes and include, but are not limited to, harvesting, thinning, reforestation, competition control, prescribed fire or construction and maintenance of forest roads and fire breaks.

Grantee shall be defined as the above-named §501(c)(3) South Carolina charitable corporation, designated as the holder of this Easement, and its successors and assigns.

Grantor shall be defined as the original donor of this Easement and his (or her, their or its) personal representatives, heirs, successors, assigns, and subsequent owners.

Impervious Surface shall be defined as a hard surface area which either prevents or significantly retards the entry of water into the soil mantle at a rate lower than that present under natural conditions prior to development. Impervious surfaces can include, but are not limited to, roof tops, walkways, patios and decking, enclosed and unenclosed porches, paved driveways, paved parking lots, covered storage areas, concrete or asphalt paving, swimming pools, or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff. **Impervious Surface** specifically excludes ground surfaces covered with sand, gravel, shell sand, crushed stone, or other similar traditional permeable materials. The use, installation, and/or introduction of new products and/or technologies for pervious surfaces (those surfaces which allow for the direct percolation of water into the soil surface), requires prior **Approval** from the **Grantee**. **Approval** will be case by case and all requests for the use, installation and/or introduction of such new products and/or technologies must be accompanied by the appropriate research, data and information on the material for **Grantee** to accurately evaluate the proposed product and/or technology.

Notice shall be defined as a written communication, prior to undertaking a permitted activity, as defined in Paragraph 19.

Policy on Amending and Restating Conservation Easements shall be defined as the written policy of the Lowcountry Open Land Trust (**Grantee**), which may from time to time be amended and/or modified, pursuant to which **Approval** is either granted or denied for the amendment and/or restatement of this Easement.

Policy on Pond Enlargement and Construction shall be defined as the written policy of the Lowcountry Open Land Trust (**Grantee**), which may from time to time be amended and/or modified, pursuant to which **Approval** is either granted or denied for the enlargement and construction of pond(s); provided, however, any pond enlargement and construction shall not be inconsistent with any provision of this Easement and shall be consistent with the Purposes of this Easement.

Related Outbuilding shall be defined as any auxiliary structure customarily used as an accessory to a private **Residential Structure** in the South Carolina Lowcountry, not including any structure used as a permanent or temporary dwelling for human beings.

Residential Structure shall be defined as any dwelling having sleeping quarters, sanitary facilities, and cooking facilities, which constitutes temporary or permanent residential use or occupancy on the Protected Property by the **Grantor**, permitted lessee, guests or employees of the **Grantor** or permitted lessee.

Significant Tree shall be defined as any live oak or magnolia tree having a diameter at breast height of eighteen (18) inches or greater.

Subdivided Tract shall be defined as a legally divided, transferable parcel of land having a unique tax identification number according to Colleton County real property tax records.

Subdivision shall be defined as the creation of a **Subdivided Tract** after the date of this Easement.

Superstructures shall be defined as any structure that extends above the level of the walkway, pierhead or float of a dock, including railings and roofs.

Wetlands shall be defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions," as stated in the United States Army Corps of Engineers Wetlands Delineation Manual (1987, or as amended).

4. **Reserved Rights.** Grantor reserves all the rights, uses and activities (collectively, the "Reserved Rights") inherent in fee simple ownership of the Protected Property, subject to the specific Restrictions and Limitations of Paragraph 5, which are included to accomplish the Purposes enumerated in Paragraph 1. All Reserved Rights shall apply to the Protected Property in its entirety. In addition, the exercise of all Reserved Rights shall be in full accordance with all applicable local, state and federal laws and regulations, as well as in accordance with the Purposes.

5. **Restrictions and Limitations.** Grantor will not perform or permit or will perform or permit, as specified below, the following acts or uses (hereinafter the "Prohibited Uses") on, over or under the Protected Property:

(A) **Subdivision.** The Protected Property is currently composed of three (3) tracts, which are Colleton County TMS #s 273-00-00-007, 273-00-00-008 and 284-00-00-013. **Subdivision** is limited to the reconfiguration of the three (3) **Subdivided Tracts**. The configuration of each such **Subdivided Tract** shall be at the Grantor's discretion. Grantor shall allocate Reserved Rights among such **Subdivided Tracts** at the time of each **Subdivision** with such allocation being specifically described and noted in the deed transferring ownership of any **Subdivided Tract**. Grantor shall give Notice to Grantee of any reconfiguration of a **Subdivided Tract**. Following a reconfiguration of a **Subdivided Tract**, the Grantor may, at any time, abandon or modify the reconfiguration and reconfigure the Protected Property into three (3) or fewer **Subdivided Tracts**. The Grantor shall not indirectly subdivide all or any part of the Protected Property through the allocation of property rights among partners, shareholders or members of any successor entity, the creation of a horizontal property regime, leasing or any other means.

(B) **Structural Limitations.** The construction, enlargement, removal and replacement of **Residential Structures** and all other structures are subject to the following limitations:

I. **Total Impervious Surface** on the Protected Property shall not exceed a maximum of one hundred fifty thousand (150,000) square feet in the aggregate.

II. No **Residential Structure, Related Outbuilding, or Agricultural Structure** shall exceed forty-five (45) feet in **Building Height**.

III. **Residential Structures** shall be limited to eleven (11) such structures.

IV. **Related Outbuildings and Agricultural Structures** shall be permitted, provided that the square footage of all **Impervious Surface** on the Protected Property does not exceed the allowance stated in Paragraph 5(B)(I).

V. All permitted **Residential Structures, Related Outbuildings and Agricultural Structures** shall be located within a permitted **Designated Building Area**. Permitted boardwalks, wooden bridges, docks, covered boathouse, towers, fencing, gates and wildlife observation structures are not limited to locations within the **Designated Building Areas**.

Notwithstanding the above, **Grantor** may construct, maintain, repair, improve, remove or replace one (1) **Agricultural Structure** outside the boundaries of the **Designated Building Areas**.

VI. Other than permitted **Residential Structures**, no other structure on the Protected Property shall be used as a temporary or permanent dwelling for human beings.

VII. Docks.

(a) The existing dock on Beef Creek may be maintained, repaired, improved, removed or replaced, provided it shall be limited to a structure substantially the same in size and character as at the time of the grant of this Easement, as shown in the Baseline Documentation Report.

(b) One (1) new dock providing access to Ashepoo River or its tributaries may be constructed, maintained, repaired, improved, removed or replaced, provided it shall be limited to primarily natural or non-reflective materials, be limited to one (1) walkway no more than four (4) feet wide, and limited to one (1) fixed pierhead and one (1) floating platform with a maximum of six hundred (600) square feet in the aggregate. The dock may also have one (1) drive-on or float-on type of floating dry dock limited to two hundred (200) square feet, or a covered boathouse limited to one thousand (1,000) square feet, thirty five (35) feet in **Building Height**, primarily natural or non-reflective materials and subject to **Approval**.

(c) Six (6) new dock(s) providing access to interior ponds to include managed waterfowl impoundments/rice fields may be constructed, maintained, repaired, improved, removed or replaced.

(d) **Grantor** shall not construct as a part of any dock providing access to Ashepoo River or its tributaries any fixed or permanent **Superstructures** or boatlifts, other than the covered boathouse as defined above in Paragraph 5(B)(VII)(b). In addition, any lighting associated with any such dock(s) that remains constantly illuminated or that automatically becomes illuminated in darkness is prohibited, and any lighting associated with any such dock(s) must employ an opaque shield so as to direct light upon the dock and its immediate surrounding area and to preclude direct visibility of the light source from outside of such immediate area. The purpose of this provision is to allow lighting of the dock for safety and security and to minimize the impact of dock lighting on the relatively natural and scenic views of the Protected Property.

Neither **Grantor** nor **Grantor's** agents, shall make application for any permit or construct any improvements or permit any third party to make application for any permit or construct improvements or permit the Protected Property to access any improvements which would result in a violation of the foregoing provisions, including, but not limited to, the construction of any docks within the deemed extension of the property lines extending to Ashepoo River except as expressly permitted herein.

VIII. Boat Launch. The existing boat launch area on Beef Creek may be maintained, repaired, improved, removed or replaced, provided it shall remain substantially the same in size and character as at the time of the grant of this Easement, as shown in the Baseline Documentation Report.

IX. Boardwalk. Boardwalks sited within or over any freshwater **Wetlands** may be constructed, maintained, repaired, improved, removed or replaced, provided they shall be limited to

walkways no wider than four (4) feet and associated observation platforms with a maximum of two thousand (2,000) square feet in the aggregate. There shall be minimal adverse impact to the freshwater Wetlands during construction.

X. Wooden Bridges. Bridges for pedestrian or vehicular access over culverts, canals, and low spots are permitted as deemed necessary for access throughout the Protected Property, provided they are constructed primarily of wooden materials.

XI. Towers. There shall be no radio, microwave, broadcast, communication and cellular towers on the Protected Property.

Notwithstanding the above, Grantor retains the right to construct, maintain, improve, repair and replace wildlife observation towers and/or shooting range towers. Towers in excess of twenty five (25) feet in height shall not be visible from off of the Protected Property when viewed from ground level.

(C) Buffers. Buffer Area(s), as shown in Exhibit "B", shall be subject to the following restrictions:

Mt. Olive Road Buffer. In order to protect the scenic view from the public roadway and to provide an aesthetic and ecological transition zone along the adjacent roadway, there shall be no **Impervious Surface**, new roads (other than those necessary to access the permitted **Subdivided Tracts**), nor structures (other than mailboxes, signs, fencing and gates), within two hundred (200) feet along the legal or established right-of-way of Mt. Olive Road from the southernmost property boundary corner on Mt. Olive Road to Bennetts Point Road. Grantor reserves the right to engage in limited **Forest Management Practices** (including firebreaks), provided there shall be no clearcutting other than within permitted impoundments, and no activities, other than prescribed burning, that endanger the health or survival of **Significant Trees** without **Approval**, and except to maintain open fields, the logging deck, and the service area existing within the buffer at the time of this Easement. Grantor may continue to use service area, as designated in the Baseline Documentation Report, as an area in which to burn debris, store and/or remove compost and fill material.

Notwithstanding the above, Grantor reserves the right to cut any tree, in accordance with applicable governmental regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, that is an invasive species, or when a permitted structure is in danger.

Grantor and Grantee acknowledge the existing right of way granted to Southern Bell Telephone and Telegraph by instrument dated May 2, 1919 and recorded in Deed Book 49 Page 188 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing right of way granted to Colleton County by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 628 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing right of way granted to State of South Carolina by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 647 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing powerlines and rights of way as shown on that Survey by Southeastern Survey dated March 10, 1994 entitled "A Boundary Survey of Poco Sabo Plantation Containing 1,634.703 Acres Owned by Allen P and Anne W. Spaulding Located in Lowndes Township, Colleton County, South Carolina" and the Plat by John T. Byrnes III dated December 5, 2011 entitled "A Boundary Line Adjustment Plat of Homestead Poco Sabo Plantation Owned by Anthony H. Ittleson, Located in Lowndes Township, Colleton County, South Carolina" which Plat is recorded in the Office for the Clerk of Court for Colleton County in Plat Book 849 at Page 5, and the priority of the rights of way over the terms of this Easement. (s) 46

Bennetts Point Road Buffer. In order to protect the scenic view from the public roadway and to provide an aesthetic and ecological transition zone along the adjacent roadway, there shall be no **Impervious Surface**, new roads (other than those necessary to access the permitted **Subdivided Tracts**), nor structures, (other than mailboxes, signs, fencing and gates) within two hundred (200) feet of the legal or established right-of-way along Bennetts Point Road. Grantor reserves the right to engage in limited **Forest Management Practices** (including firebreaks), provided there shall be no clearcutting other than within permitted impoundments, and no activities, other than prescribed burning, that endanger the health or survival of **Significant Trees** without **Approval**, and except to maintain open fields existing within the buffer at the time of this Easement.

Notwithstanding the above, Grantor reserves the right to cut any tree, in accordance with applicable governmental regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, that is an invasive species, or when a permitted structure is in danger.

Grantor and Grantee acknowledge the existing right of way granted to Southern Bell Telephone and Telegraph by instrument dated May 2, 1919 and recorded in Deed Book 49 Page 188 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing right of way granted to Colleton County by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 628 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing right of way granted to State of South Carolina by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 647 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing powerlines and rights of way as shown on that Survey by Southeastern Survey dated March 10, 1994 entitled "A Boundary Survey of Poco Sabo Plantation Containing 1,634.703 Acres Owned by Allen P and Anne W. Spaulding Located in Lowndes Township, Colleton County, South Carolina" and the Plat by John T. Byrnes III dated December 5, 2011 entitled "A Boundary Line Adjustment Plat of Homestead Poco Sabo Plantation Owned by Anthony H. Ittleson, Located in Lowndes Township, Colleton County, South Carolina" which Plat is recorded in the Office for the Clerk of Court for Colleton County in Plat Book 849 at Page ^(s)5, and the priority of the rights of way over the terms of this Easement. ₄₆

(D) **Preserve.** The following area, identified in Exhibit "B" and described in the Baseline Documentation, shall be subject to the following restrictions:

Marianne's Green Tree Preserve. Within this area of approximately sixteen (16) acres of wetland there shall be no structures (other than wells, pumps, electrical service to such pumps, protective coverings for such pumps and electrical service, permitted boardwalks and wildlife observation towers), **Agricultural Activities**, **Forest Management Practices** (except as outlined below) or clearcutting. Except as otherwise permitted herein, there shall be no activities that endanger the health or survival of **Significant Trees** without **Approval**.

Within this Preserve Area, Grantor reserves the right to create, improve, repair, replace or maintain Green Tree Reservoirs, dikes and ditches, subject to Notice and all applicable governmental statutes and regulations. Green Tree Reservoirs are maintained by shallow flooding of all or selected portions of wetland hardwood stands to benefit waterfowl and wetland vegetation and are seasonal in nature. The Green Tree Reservoirs may be, but are not required to be, flooded during the dormant season of the year and water flows are allowed to return to normal for the remainder of the year. Flooding is normally done only during the dormant season and water flows are allowed to return to normal for the

remainder of the year. Green Tree Reservoirs are recognized by the **Grantor** and **Grantee** as beneficial to waterfowl and other wetland dependent plants and animals.

Notwithstanding the above, **Grantor** reserves the right to cut any tree, including but not limited to invasive and/or exotic species when it is beneficial to maintain or improve the health of the wetland hardwood stand within or adjacent to the Green Tree Reservoir, in accordance with applicable governmental regulations when it is beneficial to maintain or improve waterfowl habitat, when it is necessary to salvage timber damaged by natural causes, or, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(E) **Industrial Uses.** There shall be no industrial uses, activities, or structures. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any industrial uses or activities.

(F) **Commercial Uses.** There shall be no commercial uses, activities or structures, other than home-based business, without prior **Approval** by the **Grantee**. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any commercial uses or activities not permitted in this Easement. For the purposes of this Easement, **Agricultural Activities, Forest Management Practices,** and the leasing of hunting, trapping and fishing rights shall not be considered commercial uses. **However, to qualify this Conservation Easement for treatment under Section 2031(c)(8)(B) of the Internal Revenue Code of 1986, as amended, any use of the Protected Property for more than a de minimis use for a commercial recreational activity is prohibited.**

(G) **Services.** Construction of water wells, septic systems, and utility services, is limited to serve the allowed uses in Paragraph 5, subject to all applicable federal, state and local laws and regulations.

Fuel storage tanks are limited to above ground liquid fuel storage tanks and/or underground gas fuel (not liquid) storage tanks to serve the allowed uses in Paragraph 5, subject to all applicable federal, state, and local laws and regulations.

Grantor and **Grantee** acknowledge the existing right of way granted to Southern Bell Telephone and Telegraph by instrument dated May 2, 1919 and recorded in Deed Book 49 Page 188 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and **Grantee** acknowledge the existing powerlines and rights of way as shown on that Survey by Southeastern Survey dated March 10, 1994 entitled "A Boundary Survey of Poco Sabo Plantation Containing 1,634.703 Acres Owned by Allen P and Anne W. Spaulding Located in Lowndes Township, Colleton County, South Carolina" and the Plat by John T. Byrnes III dated December 5, 2011 entitled "A Boundary Line Adjustment Plat of Homestead Poco Sabo Plantation Owned by Anthony H. Ittleon, Located in Lowndes Township, Colleton County, South Carolina" which Plat is recorded in the Office for the Clerk of Court for Colleton County in Plat Book 849 at Page 5.46
(s)

(H) **Roads.** Roads shall be limited to those required to facilitate the uses permitted by this Easement, provided **Grantor** shall use existing roads wherever possible and provided there shall be no road constructed or covered with **Impervious Surface**, provided parking or work areas adjacent to a building may be constructed or covered with an **Impervious Surface**. Maintenance of roads and roadside ditches shall be limited to standard practices for non-paved roads. Roads temporarily constructed or widened to allow for permitted **Forestry Management Practices** shall be allowed to return to their former size and state after this use.

Grantor and **Grantee** acknowledge the existing right of way granted to Colleton County by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 628 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

Grantor and Grantee acknowledge the existing right of way granted to State of South Carolina by instrument dated September 16, 1926 and recorded in Deed Book 57 Page 647 in the RMC/ROD Office of Colleton County and the priority of the right of way over the terms of this Easement.

(I) **Landscaping.** Landscaping shall be limited to the management of vegetation associated with the uses allowed by this Easement, including but not limited to, mowing, pruning, trimming, and gardening. Structural elements of landscaping, including but not limited to walkways and patios, shall be subject to **Impervious Surface** restrictions and limitations as outlined in this Easement.

(J) **Lighting.** There shall be no exterior lighting of which the light source is visible from off the Protected Property at ground level; lights shall employ an opaque shield so as to prevent direct visibility of the light source from off the Protected Property.

There shall be no lighting visible from off of the Protected Property from ground level that remains constantly illuminated or that automatically becomes illuminated in darkness.

The purpose of these provisions is to allow lighting on the property for safety and security and to minimize the impact of lighting on the relatively natural and scenic views of the Protected Property.

Notwithstanding, the existing lighting present at the time of grant of this Easement and located within the bounds of TMS #273-00-00-008 as it exists at the time of grant of this Easement shall be exempt from the above provision.

(K) **Signs.** Signs shall be limited to a maximum of eight (8) square feet in size, individually. Signs shall be placed so as to minimally impact the scenic view as seen from any public roadway or waterway.

(L) **Cemeteries.** **Grantor** reserves the right to maintain and improve the three (3) existing cemeteries (shown on that certain plat dated December 5, 2011 and recorded at Plat Book 849 at Page 5 and shown in the Baseline Documentation Report) and to continue to use them as burial grounds, subject to all applicable laws and regulations. **Grantor and Grantee** acknowledge the existing Declaration of Covenants, Conditions and Restrictions of Ittleson Family Memorial Garden and Cemetery dated August 11, 2003 and recorded in the RMC/ROD Office for Colleton County, South Carolina in Book 01034 at Page 1 and the priority of the covenants, conditions and restrictions over the terms of this Easement; however, **Grantee** has no enforcement responsibilities related to said Declaration.

(M) **Archeological and Paleontological Digs; Artifacts and Fossils.** Any archeological or paleontological site shall, upon completion of any excavation, be returned to, or as close as possible to, its previous state, unless the site is to be maintained in an excavated condition for interpretive purposes related to education. All artifacts or fossils located on the Protected Property must be preserved and retained on the Protected Property or contributed to a recognized and accredited museum or educational institution. The sale of artifacts or fossils is prohibited.

(N) **Forestry Uses.** Forestry Uses are limited to those **Forest Management Practices** defined in the **Forest Management Plan**. Notwithstanding the above, **Grantor** reserves the right to cut any tree, in accordance with applicable governmental regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(O) **Significant Trees.** There shall be no activities, other than prescribed burning, that endanger the health or survival of **Significant Trees** without **Approval**.

(P) **Agricultural Uses.** **Agricultural Activities** are restricted to the recommended or accepted practices, currently in use at the time of implementation, recommended by the South Carolina Cooperative Extension Service, the United States Natural Resources Conservation Service, their successors or other entities mutually acceptable to the **Grantor and Grantee**. **Grantor and Grantee** recognize that changes in agricultural

technologies, including accepted management practices, may result in an evolution of **Agricultural Activities**. Such evolution shall be permitted so long as it is consistent with the Purposes.

(Q) **Hunting and Fishing.** Grantor retains the right to non-commercial recreational hunting or fishing by Grantor and/or Grantor's guests and right to the seasonal lease of hunting and fishing rights on the Protected Property, provided neither the Grantor nor any lessee of, or party contracting with, the Grantor shall charge the sportsmen who hunt and/or fish on or from the Protected Property daily use fees, daily admission fees or any other, similar, daily "pay to hunt" fees.

(R) **Pond(s).** Enlargement of existing pond(s) and construction of new pond(s) shall be limited in size to ten (10) acres in the aggregate, shall be subject to prior written **Approval** from the Grantee and shall be in compliance with all applicable local, state and federal statutes and regulations. Existing ponds including the two (2) Azalea ponds and the two (2) Mallard Release ponds may be drained and maintained by Grantor without **Notice** or **Approval**. The term "pond" as used in this Easement shall not include any area which is flooded or which may be flooded, and any area which was all or a portion of a former rice field. The sale of extracted soil, sand, gravel or other materials produced in connection with the enlargement or construction of pond(s) is strictly prohibited, and in accordance with Paragraph 5(F) Commercial Uses and Paragraph 5(T) Mining. **Approval** shall be given in the sole discretion of the Grantee in accordance with the Grantee's **Policy on Pond Enlargement and Construction** and all proposed activities must comply with the Purposes as outlined in Paragraph 1.

(S) **Impoundment(s).** Grantor reserves the right to create, improve, repair, replace or maintain new or existing and/or historic wetland impoundments and rice fields, green tree reservoirs, dikes, ditches and water control structures, subject to **Approval** and all applicable local, state and federal statutes and regulations. Impoundments are recognized by the Grantor and Grantee as beneficial to waterfowl and other wetland dependent plants and animals.

(T) **Mining.** Mining and recovery of any oil, gas or minerals are restricted to extraction methods in accordance with Code §170(h)(5)(B) prohibiting surface mining provided that, following the mining activity, the site is returned to, or as closely as possible to, its previous state.

(U) **Topography and Hydrology.** There shall be no adverse material alteration of the topography or hydrology, unless otherwise provided for in Paragraphs 4 or 5.

(V) **Refuse.** There shall be no placing of refuse, vehicle bodies or parts, or junk not generated on the Protected Property.

(W) **Adverse or Inconsistent Uses.** There shall be no other use or activity that is inconsistent with the Purposes.

6. **Third Party Activities.** The Grantor shall keep the Grantee reasonably informed as to activities being conducted on the Protected Property which are within the scope of this Easement and as to the identity of any third parties who are conducting or managing such activities. The Grantor shall ensure that all third parties who are conducting activities relating to permitted uses of the Protected Property are fully and properly informed as to the restrictions and covenants contained within this Easement which relate to such uses, including without limitation, the provisions of this Paragraph and of Paragraphs 4 and 5.

7. **Grantee's Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, the Grantee shall notify the Grantor of the violation (hereinafter, "First Notice") and request voluntary compliance. Should Grantor disagree with Grantee regarding the alleged violation, Grantor may request mediation and upon such request the issue shall be submitted to a mediator, jointly agreed upon by Grantor and Grantee, who shall have reasonable experience with conservation easements and land use on similar properties. In the event Grantor does not request mediation or that voluntary compliance is not agreed upon within ninety (90) days of receipt of First Notice, the Grantee shall give written notice to Grantor of such violation (hereinafter, "Second Notice") and demand corrective action sufficient to cure the violation and, where the violation

involves injury to the Protected Property resulting from any use or activity inconsistent with the Purposes, to restore the portion of the Protected Property so injured.

If **Grantor** fails to cure the violation within sixty (60) days after receipt of Second Notice thereof from **Grantee** (or under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, if **Grantor** shall fail to begin curing such violation within said sixty (60) day period, or shall fail to continue diligently to cure such violation until finally cured), **Grantee** may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of the Conservation Values, and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting **Grantor's** liability therefore, **Grantee**, in its sole discretion, may either apply any damages recovered to the cost of undertaking any corrective action on the Protected Property or may apply any damages recovered towards activities relating to monitoring and enforcing compliance with the terms of this Easement and other similar conservation easements.

If **Grantee**, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, **Grantee** shall give immediate notice of the circumstances to **Grantor**, as described in Paragraph 19, and may immediately pursue its legal and equitable remedies under this Paragraph without waiting for the period provided for cure to expire. **Grantor** agrees that if such emergency arises, **Grantee** may obtain injunctive relief without the necessity of posting a bond.

Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. **Grantor** agrees that if **Grantee's** remedies at law for any violation of the terms of this Easement are inadequate, the **Grantee** shall be entitled to seek the injunctive relief described in this Paragraph, both prohibitive and mandatory in addition to such other relief to which **Grantee** may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, and without the necessity of posting a bond. **Grantee's** remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8. **Costs of Enforcement.** If **Grantee** prevails in any action to enforce the terms of this Easement, any costs incurred by **Grantee** in enforcing the terms of this Easement against **Grantor**, including without limitation, costs of suit (which includes reasonable attorneys' fees), and any reasonable costs of restoration necessitated by **Grantor's** violation of the terms of this Easement, shall be borne by **Grantor**. If **Grantor** prevails in any action to enforce the terms of this Easement, any costs incurred by **Grantor**, including **Grantor's** cost of the suit (which includes reasonable attorneys' fees) shall be borne by **Grantee**.

9. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the reasonable discretion of the **Grantee**, and any forbearance by **Grantee** to exercise its rights under this Easement in the event of any breach of any terms of this Easement by **Grantor** shall not be deemed or construed to be a waiver by **Grantee** of such term or of any subsequent breach of the same or any other term of this Easement or of any of **Grantee's** rights under this Easement. No delay or omission by **Grantee** in the exercise of any right or remedy upon any breach by **Grantor** shall impair such right or remedy or be construed as a waiver.

10. **Grantor's Environmental Warranty.** The **Grantor** warrants that it has no knowledge of the existence or storage of hazardous substances, pollutants, or wastes on the Protected Property, other than substances used in **Grantor's** agricultural, forestry, pest control or gardening activities, or a release or threatened release of hazardous substances, pollutants or wastes on the Protected Property and promises to defend and indemnify the **Grantee** against all litigation, claims, demands, penalties, and damages, including reasonable attorney's fees, arising from breach of this warranty.

11. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle **Grantee** to bring any action against **Grantor** for any injury to or change in the Protected Property resulting from causes beyond **Grantor's** control, including, without limitation, trespass, fire, hurricane, flood, storm and earth

movement, or from any prudent action taken by **Grantor** under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes.

12. **Access.** No right of public access to any portion of the Protected Property is conveyed by this Easement, except as expressly provided herein.

13. **Costs, Liabilities, and Taxes.** **Grantor** retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including, but not limited to, clean up or remediation costs due to chemical contamination and payment of taxes. Furthermore, if the **Grantor** maintains general liability insurance coverage for the Protected Property, **Grantor** will be responsible for such costs.

Each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of wrongful or negligent activities of the indemnifying party on the Protected Property.

14. **Transfer Fee.** There shall be assessed by the **Grantee** a transfer fee equal to one (1) percent of the sales price or other consideration paid in connection with the transfer of any freehold or fee simple interest in the Protected Property, including but not limited to any conveyance by warranty deed, limited warranty deed, or quitclaim deed, sale, mortgage foreclosure, or conveyance in lieu of foreclosure. The transfer fee shall be paid to the **Grantee** on the date of the closing of the transfer.

Exemptions from assessment of transfer fee:

- (A) The sale of timber rights or products produced from permitted **Forest Management Practices** and/or permitted **Agricultural Activities** of such Protected Property.
- (B) Any transfer subsequent to the conveyance of this Easement:
 - I. Without consideration, or
 - II. To a spouse, a lineal descendant, an ancestor or ancestors, a spouse of a lineal descendent (collectively, "Immediate Family Members"), or
 - III. To or from a trust whose beneficiaries or presumptive beneficiaries are the **Grantor** or an Immediate Family Member, or both, or
 - IV. To an entity at least 50% of the equity interest of which is owned by **Grantor** or an Immediate Family Member, or
 - V. If the **Grantor** of this Easement is a corporation, limited liability company or a partnership, to an owner/partner/member of such entity or to an Immediate Family Member thereof, or
 - VI. To a charitable organization which is tax exempt under §501(c)(3), or
 - VII. Any transfer under a will, or
 - VIII. Any transfer implemented or effected by court order, except foreclosure, or
 - IX. Any transfer that corrects, modifies, or confirms a transfer previously made, or
 - X. Reconfiguration of a **Subdivided Tract** or abandonment of a lot line.
- (C) If a creditor purchases the Protected Property at a foreclosure sale or takes title to the Property in lieu of foreclosure, the transfer fee shall be due and paid at the time the creditor takes title. The transfer fee shall be based on the total bid for the Protected Property if purchased at a foreclosure sale or on the amount of the accrued indebtedness if the creditor accepts a deed in lieu of foreclosure. An additional transfer fee shall be due if the creditor who takes title through foreclosure or a deed in lieu of foreclosure sells the Protected Property for an amount higher than the amount subject to the transfer fee at the time the creditor took title; the additional transfer fee due shall be based on the additional amount alone, not the entire sales price. Creditor for purposes of this Paragraph shall include an assignee of the creditor who purchases the Protected Property at a foreclosure sale or takes a deed in lieu of foreclosure.

An exchange of properties pursuant to Code §1031, or similar statute, shall be deemed to be for consideration based on the market value of the property plus boot, if applicable, received at the time of such transfer. Market value of the Protected Property shall be determined by agreement of the **Grantor** and the **Grantee**, or in the absence of such agreement by a Member Appraisal Institute (MAI) appraiser selected by the **Grantee**, whose appraisal fee shall be paid by the **Grantee**.

In the event of non-payment of such transfer fee, **Grantee** shall have the right to file a lien for such unpaid transfer fees which shall be a lien on the Protected Property but which lien shall be subordinate to this Easement and to the lien of any first mortgage on the Protected Property. Any such lien may be enforced and/or foreclosed in accordance with the laws of the State of South Carolina. **Grantee** may require the **Grantor** and/or any subsequent purchaser to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence.

15. **Extinguishment, Condemnation and Fair Market Value.** If circumstances arise in the future that render all of the Purposes impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, then, as required by §1.170A-14(g)(6) of the Treasury Regulations, **Grantee** in the event of any sale, exchange, or involuntary conversion of the Protected Property is entitled to a percentage of the gross sale proceeds, minus any amount attributable to the value of improvements made after the date of this grant and allowed under the Conservation Easement, which amount shall be reserved to **Grantor**, equal to the ratio of the appraised value of the Conservation Easement to the unrestricted fair market value of the Protected Property established as of the date donated.

If all or a part of the Protected Property is taken by exercise of the power of eminent domain, **Grantor** and **Grantee** shall be respectively entitled to compensation in accordance with applicable law and as provided in this Paragraph. **Grantor** and **Grantee** shall divide the net proceeds after the payment of all expenses of the condemnation (minus any amount attributable to the value of improvements made after the date of grant of this Easement and allowed under this Easement, which amount shall be reserved to **Grantor**) in accordance to the ratio of the appraised value of this Easement to the unrestricted fair market value of the Protected Property established as of the date donated.

For the purpose of the above Paragraphs, the parties hereto stipulate that the value of this Easement and the value of the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property. The percentage interests shall be determined by the ratio of the value of the Easement to the value of the Protected Property, without reduction for the value of the Easement. All such proceeds received by **Grantee** shall be used in a manner consistent with **Grantee's** mission. This provision is not intended to violate the provision required by Code §170(h)(2)(C) that requires the Easement to be granted in perpetuity.

16. **Limitations on Amendment.** If unforeseen circumstances arise, including any change or modification to state or federal laws or regulations especially as they relate to the Code, under which an amendment to, or modification of, this Easement would be appropriate to clarify any ambiguities or to maintain or enhance the Conservation Values, **Grantor** and **Grantee** may, by mutual written agreement, jointly amend this Easement; provided that no amendment shall be allowed that will adversely affect the eligibility of this Easement as a "qualified conservation easement" under any applicable laws, including §§170(h) and 2031(c) of the Code. No amendment shall be allowed which would adversely affect the "tax exempt" status of the **Grantee** under any applicable laws, including §501(c)(3) of the Code and Treasury Regulations promulgated thereunder. Any such amendment shall be consistent with the purposes of this Easement, shall not affect its perpetual duration, shall not permit additional development or improvements that would interfere with the essential scenic quality of the land or with any governmental conservation policy that is being furthered by this Easement donation (if applicable) and as stated in §1.170A-14(d)(4)(v) of the Treasury Regulations, shall not permit any impairment of the Conservation Values, and shall be in accordance with the **Grantee's Policy on Amending and Restating Conservation Easements**. **Grantor** and **Grantee** agree to reasonable consideration of any such proposed amendment, however, neither **Grantor** nor **Grantee** shall be bound to agree to any amendment. Any such amendment shall be recorded in the official land records of Colleton County, South Carolina.

17. **Assignment.** The benefits of this Easement shall not be assignable by the **Grantee**, except if as a condition of any assignment, (i) the **Grantee** requires that the terms and conditions of this Easement continue to be carried out in full as provided herein, (ii) the assignee has a commitment to protect the Purposes and the resources to enforce the restrictions contained herein, and (iii) if the assignee, at the time of assignment, qualifies under §170(h) of the Code, and applicable Treasury Regulations promulgated thereunder, and under State of South Carolina law as an eligible donee to receive this Easement directly. In the event that **Grantee** ceases to exist or exists but no longer as a tax-exempt, nonprofit corporation, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, then this Easement shall be assigned to a tax-exempt, nonprofit organization, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, which has a mission of protecting open lands or natural resources in the South Carolina Lowcountry.

18. **Transfers.** **Grantor** agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which **Grantor** transfers any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. The **Grantor** shall give the **Grantee Notice** of any change of possession, ownership or control of the Protected Property within thirty (30) days of such change, including without limitation notice of any transfer, lease, or sale of all or a part of the Protected Property. The failure of **Grantor** to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

19. **Communication.** All **Notices**, demands, requests, consents, **Approvals**, and other similar communications required or permitted to be given hereunder (individually or collectively "Correspondence") shall be deemed sufficiently given or rendered only if in writing and sent by a nationally recognized overnight courier with delivery restricted to addressee or sent by United States Postal Service first class certified mail, postage prepaid, return receipt requested, documented by appropriate proof of delivery,. If in the discretion of **Grantee** emergency circumstances exist that warrant immediate action, transmission of Correspondence may be made by electronic mail or facsimile in addition to the means previously described in an effort to inform the **Grantor** immediately of such circumstances. Monitoring reports and communications that do not deal with formal requirements under the terms of this Easement may be communicated by United States Postal Service first class mail. All such Correspondence and communications shall be addressed as follows:

If to Grantor :	Mr. H. Anthony Ittleson 1185 Poco Sabo Lane Green Pond, SC 29446
If to Grantor's Attorney :	Warren & Sinkler, LLP ATTN: Scott Y. Barnes 171 Church Street, Suite 340 Charleston, SC 29401
If to Grantee :	Lowcountry Open Land Trust, Inc. 80 Alexander Street Charleston, SC 29403 Attn: Executive Director

or to such other person or place as a party may designate by Correspondence as aforesaid. Correspondence by mail or overnight courier service shall be deemed given on the date of receipt as shown on the return receipt, or receipt or records of the courier service, as the case may be. In the event any such Correspondence is mailed via the United States Postal Service or shipped by overnight delivery service to a party in accordance with this Paragraph 19 and is returned to the sender as undeliverable, then such Correspondence shall be deemed to have been delivered or received on the third day following the deposit of such Correspondence in the United States Mail or the delivery of such Correspondence to the overnight delivery service. **Grantor** has the responsibility of promptly notifying **Grantee** of **Grantor's** current address and other contact information. **Grantor** shall promptly notify **Grantee** of (i) any changes of **Grantor's** address or other changes in **Grantor's** contact information, and (ii) the name, address, and contact information of any transferee of the Protected Property if **Grantor** conveys the Protected Property. Any

communications or Correspondence by Grantee to or with Grantor sent to the last address provided by Grantor shall be deemed sufficient to provide notice to Grantor.

20. Recordation. Grantor or Grantee shall record this instrument in timely fashion in the RMC/ROD Office for Colleton County, South Carolina, and may re-record it at any time as may be required to preserve its rights in this Easement.

21. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Easement is recorded in the RMC/ROD Office for Colleton County, South Carolina, after all required signatures have been affixed hereto.

22. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of South Carolina.

23. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to uphold the Purposes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purposes that would render the provision valid should be favored over any interpretation that would render it invalid.

24. Severability. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement shall not be affected thereby.

25. Entire Agreement. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to, the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Protected Property. All terms used in this Easement, regardless of the number or gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of this Easement, any Paragraph, Subparagraph, or clause herein may require as if such terms had been fully and properly written in such number or gender.

TO HAVE AND TO HOLD the Easement interests herein described unto Grantee forever.

By execution of this Easement, the Grantee accepts this Easement and the rights and obligations recited herein.

GRANTOR HEREBY WARRANTS and represents that the Grantor is seized of the Protected Property in fee simple and has good right to grant and convey this Easement, that the Protected Property is free and clear of any and all encumbrances, except existing easements of record and prescriptive easements, if any, and except for that certain mortgage dated August 6, 2007, and recorded August 7, 2007, in Book 1542 at Pages 37-38 in the RMC/ROD Office aforesaid which mortgage has been subordinated to this Easement and that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Easement.

IN WITNESS WHEREOF, Grantor and Grantee have set their hands to duplicate original copies of this Easement under seal on the day and year first above written.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

WITNESSES:

Elizabeth M. Hegood
Jane Hay

GRANTOR:

H. Anthony Ittleson
H. Anthony Ittleson

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

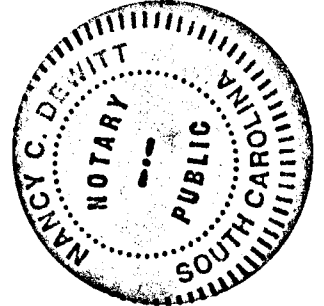
ACKNOWLEDGMENT

The foregoing instrument was acknowledged this 14 day of December 2011, before me the undersigned Notary, and I do hereby certify that the above named Grantor personally appeared before me and acknowledged the due execution of the foregoing instrument.

Nancy C. Dewitt
(Signature of Notary)

Notary Public for the State of South Carolina

My commission expires: January 28, 2014



WITNESSES:

Elizabeth M. Hegood
Jane Hay

GRANTEE:

LOWCOUNTRY OPEN LAND TRUST, INC.

By: [Signature]

Its: President

Elizabeth M. Hegood
Jane Hay

And: W. Geph Valbury

Its: Secretary

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged this 14 day of December 2011, before me the undersigned Notary, and I do hereby certify that the above named duly authorized officers of the Grantee personally appeared before me and acknowledged the due execution of the foregoing instrument.

Nancy C. Dewitt
(Signature of Notary)

Notary Public for the State of South Carolina

My commission expires: January 28, 2014

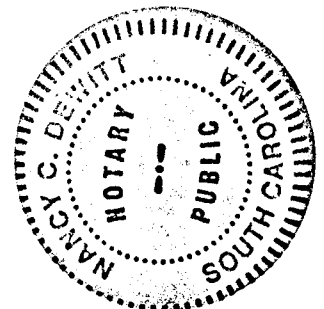


EXHIBIT A

Legal Description and Derivation of Protected Property

ALL those certain pieces, parcels or tracts of land, together with the buildings and improvements thereon, known as Poco Sabo Plantation, situate, lying and being in Lowndes Township, County of Colleton, State of South Carolina, shown and designated as "TMS # 273-00-00-007, H. Anthony Ittleson, 45.012 AC.", "TMS # 273-00-00-007, H. Anthony Ittleson, 717.202 AC."; "TMS # 273-00-00-007, H. Anthony Ittleson, 785.512 AC. Residual", "15.074 AC." and "Homestead TMS # 273-00-00-008, H. Anthony Ittleson, 66.794 Acres", as shown on that certain Plat by John T. Byrnes III dated December 5, 2011 entitled "A Boundary Line Adjustment Plat of Homestead, Poco Sabo Plantation Owned by H. Anthony Ittleson, Located in Lowndes Township, Colleton County, South Carolina" which Plat is recorded in the Office for the Clerk of Court for Colleton County in Plat Book ~~449~~ at Page 5. ~~46~~ ^(s)

Being a portion of the same property conveyed to H. Anthony Ittleson by Deed of Allen P. Spaulding, Jr., Frederick Ayer Spaulding, Anne Spaulding Rose (formerly Anne. D. Spaulding Diebold) and Alan L. Rose recorded March 14, 1997 in the Office of the Clerk of Court for Colleton County in Book 763 at Page 333.

TMS #s 273-00-00-007 and 273-00-00-008

AND

All that certain piece, parcel or tract of land situate, lying and being near Bennetts Point in the County of Colleton, State of South Carolina, containing 21.2556 acres, more or less, as shown and delineated on a plat entitled "A BOUNDARY SURVEY OF THE LANDS OF ELIJAH BROWN TO BE CONVEYED TO LAVINGTON ASSOCIATES, LLC LOCATED NEAR BENNETTS POINT, COLLETON COUNTY, SOUTH CAROLINA" prepared by Robert L. Frank, RLS #4177, dated March 8, 2000, and recorded in the Office of the Clerk of Court for Colleton County in Plat Slide 675 at Page 9, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Bennetts Point Road and measuring thereon Four Hundred Thirty-three and Eighty-four Hundredths (433.84') feet; on the Southeast and Northeast by lands of Mercelien and Teresa Alexandre and measuring thereon One Hundred Twenty-five and Sixty-two Hundredths (125.62') feet and Ninety-six and Thirty-three Hundredths (96.33') feet, respectively; on the Southeast, Southwest, Southeast and Southwest by lands of Zion Methodist Church and measuring thereon One Hundred Fifty-eight and Sixty-eight Hundredths (158.68') feet, Seventy-five and Eleven Hundredths (75.11') feet, One Hundred Seventy-eight and Ninety-two Hundredths (178.92') feet and Thirty-three and Fifty-three Hundredths (33.53') feet, respectively; on the Southeast by lands of Jackie Kelly and measuring thereon One Thousand Two Hundred Eight and Ninety-six Hundredths (1,208.96') feet; on the Southwest, Northwest, and Southwest by lands of Poco Sabo Plantation and measuring thereon Five Hundred Twenty-six and Thirty-two Hundredths (526.32') feet, One Thousand and One Tenth (1000.10') feet and Six Hundred Seven and Seventy-nine Hundredths (607.79') feet, respectively; on the Northwest by lands of Kenneth Mitchell and measuring thereon One Hundred Twenty-five and Eight Hundredths (125.08') feet; and on the Northeast and Northwest by lands of Estate of Sam Ladson and measuring thereon Five Hundred Fifty-three and Ninety-eight Hundredths (553.98') feet and Five Hundred Thirty-six and Seventy-two Hundredths (536.72') feet, respectively.

Being the same property conveyed to H. Anthony Ittleson by Deed of M & T of Colleton County, LLC dated and recorded November 30, 2011 in the Office of the Clerk of Court for Colleton County in Book 1976 at Page 259.

TMS # 284-00-00-013

Grantee's Address: 80 Alexander Street
Charleston, SC 29403

201100005078 00
Exhibit B



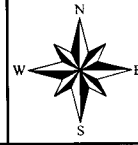
Legend

-  Easement Boundary
-  Road Buffers (200 ft.)
-  Preserve (~16 ac.)



Poco Sabo Plantation
2006 NAPP Infrared Aerial Photograph

0 300 600 1,200 1,800 2,400 3,000 3,600 Feet



Lowcountry Open Land Trust
80 Alexander Street, Charleston, SC 29403
(843) 577-6510
Map produced by LOLT. Please refer to legal description, survey & Colleton County TMS #s 273-00-00-007, 273-00-00-008 and 284-00-00-013 for more boundary details.

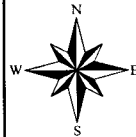
Exhibit C

**Legend**

-  Easement Boundary
-  Designated Building Area
(~67 ac.)

**Poco Sabo Plantation**
2006 NAPP Infrared Aerial Photograph

0 300 600 1,200 1,800 2,400 3,000 3,600 Feet



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80 Alexander Street, Charleston, SC 29403
(843) 577-6510

Map produced by LOLT. Please refer to legal description, survey & Colleton County TMS #s 273-00-00-007, 273-00-00-008 and 284-00-00-013 for more boundary details.