THE PROVISIONS OF THIS CONSERVATION EASEMENT ARE SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ARBITRATION ACT.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 21st day of January, 2003, by Branch Banking and Trust Company of South Carolina as Successor Personal Representative of the Estate of Huger Sinkler (hereinafter "Grantor"), having an address at 151 Meeting Street, Charleston, South Carolina 29401, 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 (generally hereinafter the "Code") and not a private foundation under Code §509, with a business address at 485 East Bay Street, Charleston, SC 29403.

WHEREAS, Grantor is the sole owner in fee simple of certain real property known as "Rosebank Estates Lot III" containing approximately 22.77 acres, TMS # 198-00-00-016 in the County of Charleston, South Carolina, and 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 lies within the 800,000 acres of the Cooper, Ashley, Wando and Sea Islands (hereinafter "CAWS") 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 CAWS Focus Area of South Carolina, and Bohicket Creek in particular, has suffered a tremendous 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 industrial, commercial and residential development; and

WHEREAS, the Protected Property possesses significant natural, ecological, wildlife habitat, open space and scenic values (collectively "Conservation Values") of great importance to Grantor, to Grantee and to the people of South Carolina and this nation; and

WHEREAS, the specific Conservation Values of the Protected Property are summarized hereunder and documented in a report on file at the offices of the Grantee and incorporated herein by this reference (hereinafter the "Baseline Documentation"), which consists of maps, photographs and reports (including NAPP Photos #7443-9 dated February 7, 1994, and on-site photographs taken by a representative of the Grantee), and the parties agree that the report 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, 25 other landowners on Wadmalaw Island have permanently protected property totaling 3,412 acres with Grantee and, specifically, the Protected Property is located in close proximity to Oakhart Plantation, totaling 314 acres, the Jacquelyn Lane Family Tract, totaling 80 acres, the Williams Family Tract, totaling 144 acres and Rosebank Estates Lot VII, totaling 24 acres, all permanently protected under conservation easement with Grantee and the Johns Island Maritime Forest Preserve, totaling approximately 175 acres and owned by The Nature Conservancy ; and

WHEREAS, in particular, the only existing man-made element on the Protected Property is an unimproved dirt road and it is more specifically identified in the Baseline Documentation; and

WHEREAS, in particular, the quality and combination of natural habitats provide significant wildlife habitat functions including feeding, nesting and roosting areas for migratory songbirds and ground-nesting birds; feeding, nesting and roosting areas for marsh and colonial waterbirds; feeding, nesting and brooding areas for wetlands-dependent game and non-game species; and feeding, breeding and resting areas for native small game and non-game mammals; and

WHEREAS, in particular, the Protected Property supports or has the habitat to support a diversity of regionally significant wildlife species in the CAWS Focus Area including but not limited to the white-tailed deer (Odocoileus virginianus), the river otter (Lutra canadensis), the mink (Mustela vison), the American Bald Eagle (Haliatus leucocephalus), the American alligator (Alligator mississippiensis), the wild turkey (Meleagris gallopavo), the wood stork (Mycteria americana) and numerous other avian, reptile, amphibian, insect, arachnid and mammal species that are of great importance to the people of South Carolina and this nation; and

WHEREAS, in particular, the Protected Property is zoned for multiple single-family dwellings which zoning would allow the destruction of the natural character, the scenic values and the remaining wildlife habitat; and

WHEREAS, in particular, the Protected Property in its existing natural condition contributes very little nonpoint source pollution to the waterways and tributaries of Bohicket Creek due to the vegetation surrounding all watercourses that provide for nutrient uptake and sediment deposition and due to the relative lack of impervious surface that reduces sources of pollution and nutrient loading; and

WHEREAS, Grantor believes that with the intelligent and careful use of conservation easements, 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 subsequent use and enjoyment; and

WHEREAS, Grantor intends to preserve and protect the Conservation Values of the Protected Property 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 "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 the Lowcountry Open Land Trust, Inc. to hold conservation easements; and

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 in the regulations promulgated thereunder by the United States Department of the Treasury (hereinafter "Treasury Regulations") by placing voluntary 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 contemplated by the Act; and

WHEREAS, Grantee is a publicly supported, tax-exempt, nonprofit corporation organized and operated under Code §501(c)(3) and not a private foundation under §509 of the Code, whose primary purpose is the preservation of the irreplaceable natural and historically significant landscape of the Lowcountry (as such term is defined below), and the natural beauty of the Lowcountry (as such term is defined below) by protecting land, waters

and vistas of special scenic and aesthetic significance in Beaufort, Colleton, Charleston, Berkeley, Dorchester, Georgetown, and Jasper Counties, as well as adjacent counties (collectively, the "Lowcountry");

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to §§170(h) and 2031(c) of the Code and the laws of the State of South Carolina, the Grantor hereby sells and conveys to Grantee, its successors and permitted assigns, 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 of the Easement.**

(A) It is the purpose of this Easement to protect and preserve the Protected Property in its current natural, scenic and open space condition for conservation purposes and to conserve or improve wildlife habitat, and especially on Bohicket Creek, the water quality, and the scenic vistas of the Protected Property for present and future generations, and to minimize the conversion of natural land to impervious surface or manmade structures.

(B) It is also the purpose of this Easement to prevent any use of the Protected Property, except such limited uses as are permitted by this Easement, that will significantly impair or interfere with the Conservation Values of the Protected Property, the wildlife habitat of the Protected Property and the Protected Property's natural resources and associated ecosystems, subject to the rights and privileges reserved by Grantor.

(C) It is also the purpose of this Easement to allow the continuation of historic and traditional uses of the Protected Property as a family residential, recreational and hunting retreat, and to preserve its availability for sustainable forestry, as defined herein, and to allow for the introduction of limited new uses that are compatible and consistent with the Conservation Values of the Protected Property such as minimum-impact educational, recreational, and research activities, subject to the rights and privileges reserved by Grantor.

(Hereinafter these purposes outlined in Paragraphs 1 (A) and (B) and (C) will be known as the "Purposes of this Conservation Easement.")

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

(A) Right of Visual Access. To have visual access to, and view of, the Protected Property in a natural, scenic, open and undisturbed condition, 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 and at reasonable times in order to monitor compliance with the Easement and to further document natural features on the Protected Property. Except as otherwise provided in Paragraph 8 below, the Grantee shall give at least two (2) weeks notice prior to entry and shall limit entry to annual visits (after completion of the Baseline Documentation) unless the Grantee has reason to believe there is a violation, or prospective 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, all subsequent owners, or third persons from conducting any activity on or use of the Protected Property that is inconsistent with the Purposes of this Conservation Easement and not permitted hereunder;

(D) Right to Require Restoration. To require Grantor, all subsequent owners, or third persons to restore such areas, wildlife habitat or features of the Protected Property that may be damaged by any Prohibited Uses (delineated below), or any activity or use inconsistent with the Purposes of this Conservation Easement; and

(E) Right of Discretionary Consent. If, owing to unforeseen circumstances, any of the 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 further:

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. 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. **Prohibited Uses.** Subject to the Reserved Rights (delineated under Paragraph 4 below) Grantor will not perform or permit the following acts or uses on, over or under the Protected Property:

(A) Subdivision. There shall be no subdivision of the Protected Property. 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) Residential Uses. There shall be no residential uses, activities or structures on the Protected Property.

(C) Commercial Uses. There shall be no commercial uses, activities or structures on the Protected Property. 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 prohibited by this Easement. The construction or operation of golf courses or commercial golf-related activities is specifically prohibited, without limiting the generality of the foregoing.

(D) Industrial Uses. There shall be no industrial uses, activities, or structures on the Protected Property. 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 prohibited by this Easement.

(E) Structures. There shall be no construction or placement of temporary or permanent buildings, docks, boat ramps, mobile homes, house trailers, shelters, bridges, piers, transmission or receiving antennas or towers, utility transmission poles or any other structures on the Protected Property.

(F) Signs. There shall be no construction or placement of any signs, including, but not limited to, advertising signs, billboards, or other advertising materials on the Protected Property.

(G) Roads and Bridges. There shall be no construction of any new roadway or bridge on the Protected Property.

(H) Mining, Excavating. There shall be no mining, excavating, dredging or removing from the Protected Property of soil, loam, peat, gravel, sand, rock or other mineral resource.

(I) Refuse and Underground Storage Tanks. There shall be no installation of underground storage tanks, other than septic tanks and underground liquefied petroleum (LP) gas storage tanks to serve the permitted Residential Improvements (described in Paragraph 4 below), on the Protected Property. The installation of underground liquid petroleum storage tanks is specifically prohibited. There shall be no placing, filling, storing or

dumping on the Protected Property of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other substance not generated on the Protected Property, nor any use of the Protected Property as a sanitary landfill.

(J) Topography and Hydrology. There shall be no uses of the Protected Property that would materially and adversely alter the topography, hydrology, water systems, wetlands, or habitat on the Protected Property.

(K) Invasive, Nuisance and Exotic Species. There shall be no introduction of invasive plant or nuisance animal species. There shall be no introduction of exotic species without the Grantee's prior written consent, except those plant species traditionally or prevalently used for wildlife management or ornamental landscaping in the Lowcountry at the time of the grant of this Easement.

(L) Significant Tree Protection. The Grantor shall protect and preserve the live oak, bald-cypress, palmetto and magnolia trees on the Protected Property having a diameter at breast height of eight (8) inches or greater and shall not cut, girdle or prune in such a manner as to impair the health of the protected live oak, bald cypress, palmetto or magnolia trees without prior written approval of the Grantee in accordance with Paragraph 5 herein. Such approval shall be granted if the Grantor's actions are reasonably required to preserve or protect an existing, permitted structure, dike, road or driveway.

(M) Lighting. All exterior lighting, including landscape and accent lighting, must be so designed and located as to preclude direct sight of the light source from beyond property lines

(N) Agricultural Uses. There shall be no agricultural uses, activities or structures, including, but not limited to: farming, horticultural nursery, mariculture, aquaculture, animal husbandry and cattle and livestock activities, on the Protected Property.

(O) Hunting and Fishing. There shall be no hunting or fishing on or from the Protected Property.

(P) Vegetation and Timber. There shall be no cutting or harvesting of timber on or from the Protected Property. Grantor shall not cut, remove, or otherwise destroy grasses, herbs, bushes, shrubs, trees or any other vegetation on the Protected Property.

(Q) Endangered Species. Grantor shall follow and abide by any and all applicable guidelines relating to habitat management for species listed as endangered by the federal Endangered Species Act as promulgated by the United States Fish and Wildlife Service, or successor agency. Grantor shall not have the affirmative duty to perform habitat creation or restoration activities as called for under the relevant guidelines.

(R) Scenic Buffers. There shall be maintained the following scenic buffers on the Protected Property:

I. Retriever Road. Grantor shall maintain a natural buffer within one thousand four hundred (1,400) feet of the established right-of-way along the south side of Retriever Road. There shall be no structure, other than fencing and gates, nor shall there be any clearing, cutting or removal of mature trees, defined as trees having a diameter at breast height of eight (8) inches or greater, in the scenic buffer. It shall be the purpose of this provision to maintain the natural values of the mature tree cover on the Protected Property as seen from Retriever Road in the condition described in the Baseline Documentation.

II. Bohicket Creek. Grantor shall maintain a natural buffer on the upland portions of the Protected Property within one hundred (100) feet of the S. C. Office of Ocean and Coastal Resource Management Critical Line adjacent to Bohicket Creek. There shall be no structure, nor shall there be any cutting, clearing or removal of mature trees, defined as a tree of any type other than pine (*Pinus sp.*), water oak (*Quercus nigra*) or sweetgum (*Liquidambar styraciflua*) having a diameter at breast height of eight (8) inches or greater, in this scenic buffer. It shall be the purpose

of this provision to maintain the natural and riparian wildlife values of the mature tree cover along Bohicket Creek in the condition described in the Baseline Documentation.

Notwithstanding the above, the Grantor reserves the right to cut any tree when it is necessary to salvage timber damaged by insect, disease, hurricane, fire, wind or flood damage, or when cutting is necessary to prevent further timber damage or when a structure permitted in Paragraph 4 herein is in danger from a hazardous tree.

(S) Freshwater Wetlands. It is the purpose of this provision to protect the natural habitat functions of freshwater wetlands on the Protected Property and its adjacent properties while permitting Routine Maintenance (as described in Paragraph 4 below), continued management of water control structures and vegetation for the purposes of maintaining or improving wildlife habitat or as needed to control invasive and nuisance species such as *Phragmites sp.*. All activities within freshwater wetlands shall be in compliance with existing local, state, and federal regulations.

I. Within any natural pond, natural freshwater wetland or any permanent natural watercourse and within one hundred (100) feet of any natural pond, natural freshwater wetland or any permanent natural watercourse there shall be no Agricultural or Forestry Uses (as described in Paragraph 4 below), other than maintenance of permitted roadways and permitted recreation paths, without prior approval by the Grantee in accordance with Paragraph 5 below.

II. There shall be no dredging, other than routine maintenance of any drainage ditches, nor shall there be any filling or permanent draining of any existing natural pond or natural freshwater wetland ecosystems.

III. There shall be no new structure located within one hundred (100) feet of any natural pond, natural freshwater wetland or any permanent natural watercourse.

IV. Septic tank drain fields shall be sited no closer than one-hundred (100) feet, or the minimum distance required by the South Carolina Department of Health and Environmental Control (or successor agency), whichever is greater, from any pond, natural freshwater wetland or any permanent natural watercourse.

(T) Graveyards and Burial Sites. Graveyards and burial sites located on the Protected Property shall not be altered or disturbed in any manner except for maintenance and landscaping as permitted in Paragraph 4 below. No Agriculture or Forestry Uses (as described in Paragraph 4 below) nor construction of structures shall be permitted within fifty (50) feet of any graveyard or burial site.

(U) Adverse or Inconsistent Uses. There shall be no other use of the Protected Property or activity which is inconsistent with the Purposes of the Conservation Easement, or that would threaten or impair significant conservation interests unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement. In the event that there is a dispute between the Grantor and the Grantee as to whether or not an activity or use is prohibited under this Paragraph, the parties will arbitrate the matter in accordance with the provisions of Paragraph 7 below.

4. Reserved Rights. Notwithstanding any provision to the contrary contained in this Easement, Grantor reserves to himself, and to his personal representative, heirs, successors, and assigns, the following rights, uses and activities (collectively, the "Reserved Rights"). All Reserved Rights enumerated in this Paragraph shall apply to the Protected Property in its entirety. 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 of this Conservation Easement.

(A) Allowed Activities. The right to engage in all activities or uses not expressly prohibited by governmental statute or regulation, not expressly prohibited herein, and not inconsistent with the Purposes of this Conservation Easement.

(B) Recreation Uses. The right to engage in any non-commercial minimum impact outdoor recreational uses and activities, including fishing, hunting, recreational shooting, hiking, swimming, wildlife observation, canoeing, kayaking, boating, bird-watching, photography, or other activities that are not disruptive to the natural environment, do not impair the Conservation Values of the Protected Property and are in compliance with all applicable federal, state and local statutes and regulations.

(C) Residential Structures. The right to construct, maintain, repair and replace residential improvements on the Protected Property, subject to the following guidelines and restrictions:

I. Residential Improvements.

(a) The right to construct, maintain, replace and repair one (1) Residential Compound (as such term is defined below), where the aggregate square footage allocated to such Residential Compound does not exceed twelve thousand (12,000) square feet. It is understood that this aggregate square footage does not include the permitted swimming pool referenced below in Paragraph 4(C)(I)(b), and

(b) The right to construct and maintain one (1) swimming pool where the square footage allocated to such swimming pool does not exceed two thousand (2,000) square feet inclusive of any associated decking, patio, walkway, or any paved surfaces.

II. Designated Building Area. All Residential Improvements shall be located within an eight (8) acre building area, the shape and configuration of which shall be at the discretion of the Grantor. Within such Designated Building area as it corresponds to the Scenic Buffers described in Paragraph 3 herein, Grantor reserves the right to construct all Residential Improvements, to landscape and to remove any vegetation, subject to the following limitations:

a) No Residential Improvement shall be sited within one hundred (100) feet of the S. C. Office of Ocean and Coastal Resource Management Critical Line adjacent to Bohicket Creek, and

b) Grantor shall not remove or destroy any mature hardwood tree, defined as a tree of any type other than pine (*Pinus sp.*), water oak (*Quercus nigra*) or sweetgum (*Liquidambar styraciflua*) having a diameter at breast height (DBH) of eight (8) inches or greater, within one hundred (100) feet of the S. C. Office of Ocean and Coastal Resource Management Critical Line adjacent to Bohicket Creek, and

c) Grantor shall provide notice to the Grantee, in accordance with the provisions of Paragraph 5 herein, of the siting of the Designated Building Envelope.

In addition, the Grantor reserves the right to cut any tree when it is necessary to salvage timber damaged by natural causes such as insect infestation, disease, hurricane, fire, wind or flood, or when cutting is necessary to prevent further timber damage by these agents or when an existing permitted structure is in danger from a hazardous tree. The remaining portion of the Scenic Buffers shall remain subject to the provisions in Paragraph 3 relating to Scenic Buffers, and in no case shall trees be clearcut within any portion of the Scenic Buffers.

It shall be the purpose of this provision to allow for the construction of new permitted Residential Improvements while at the same time to avoid unnecessary habitat fragmentation and

conversion of forestland to residential uses in order to preserve the Conservation Values of the Protected Property, and to allow for the creation of a reasonable view from the permitted Main House (as such term is defined below) while at the same time preserving both the scenic and natural character of the Protected Property as viewed from Bohicket Creek and the wildlife habitat value of the natural forest community.

III. Restrictions.

a) No new Residential Improvement shall exceed thirty-five (35) feet in height above the ground, or thirty-six (36) feet above the Base Flood Elevation as determined by the Federal Emergency Management Agency (or successor agency), whichever is greater, subject to applicable federal, state, or local regulations.

b) The siting of all new Residential Improvements shall be subject to the provisions of Paragraph 3 concerning Scenic Buffers, Endangered Species, Graveyards and Burial Sites, Freshwater Wetlands and the provisions of Paragraph 4 relating to Designated Building Areas.

c) In no case shall the edge of disturbance required for the construction of new Residential Improvements permitted herein occur within one hundred (100) feet of any natural wetland, natural pond or natural watercourse.

d) The right to construct permitted Residential Improvements shall be subject to notice to the Grantee as provided in Paragraph 5 below.

e) Septic tank drain fields shall be sited no closer than one hundred (100) feet, or the minimum distance required by the South Carolina Department of Health and Environmental Control (or successor agency), whichever is greater, from any pond, freshwater wetland or any permanent watercourse.

f) Mobile homes and house trailers are prohibited, except such facilities may be permitted on the Protected Property as temporary housing during construction of a permitted Main House (as such term is defined below) for a reasonable period of time, not exceeding eighteen (18) months, during such construction with approval of the Grantee as provided in Paragraph 5 herein, provided the siting of such facilities complies with the provisions in Paragraph 3 relating to Scenic Buffers, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection, the provisions in Paragraph 4 relating to Designated Building Area and subject to notice to the Grantee in accordance with Paragraph 5 herein.

IV. Definitions.

For the purposes of this Paragraph, the term "Residential Compound" shall mean a collection of structures for residential use that may include no more than one (1) Main House, one (1) Guest House and Related Outbuildings (as such terms are defined below).

For the purposes of this Paragraph, the term "Main House" shall mean a detached, single-family dwelling unit constituting the primary residential use of the parcel on which it is located, to be occupied by the owner or Lessee of said parcel.

For the purposes of this Paragraph, the term "Related Outbuildings" shall refer to any and all sheds, pump houses, garages, equipment sheds, dog runs and other such auxiliary structures customarily accessory to a private rural residence in the Lowcountry. This provision does not permit mobile homes. In no case does the term "Related Outbuildings" permit the use of any such structure or improvement as a dwelling unit for human beings.

For the purposes of this Paragraph, the term "Guest House" shall mean a single-family dwelling to be located adjacent to or in close proximity to, to be held under the same ownership as and controlled by the Main House (as such term is defined above), and intended for the occasional use of guests and family members of the owner of the Main House and not for use as an independent single-family dwelling.

For the purposes of this Paragraph, square footage requirements shall refer to the total architectural footprint of the built area inclusive of any associated impervious surfaces including, but not limited to, enclosed and unenclosed porches, patios and raised decking, paved parking surfaces and walkways, for all existing and future Residential Improvements.

(D) Water, Wells, Septic Systems, Utility Lines. The right to drill or bore for water on the Protected Property and to make available water wells, septic systems and utility services, in compliance with all state rules and regulations that are in effect at the time of the property modification, to any existing or permitted structures on the Protected Property and the right to construct utility lines, such as water lines, sewer lines, electrical lines, gas lines, and telephone and cable lines. In addition, the Grantor reserves the right to build structures as needed to introduce and provide renewable, resource-based energy such as wind power or solar power, subject to a height limitation of forty (40) feet above the ground, except with the approval of the Grantee in accordance with Paragraph 5 below. In order to minimize the visual impact of any new utility, the Grantor shall make best efforts to site necessary intrusions in a manner that limits their visibility from any public roadway or waterway, including the use of underground burial of such utility.

(E) Driveways and Roads. The right to provide driveways and roads to existing or permitted structures and to create and maintain drainage ditches for existing and new roads through the Protected Property, subject to the provisions of Paragraph 3 concerning Endangered Species, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection. Grantor shall use existing roads wherever possible for access to any new permitted structures. There shall be no paving of any roadway located within the Protected Property with non-permeable materials. Maintenance of roads shall be limited to standard practices for non-paved roads, such as: grading and road stabilization; the removal of dead vegetation; necessary pruning or removal of hazardous trees and plants; application of sand or sand clay to repair or enhance the road bed; application of permeable materials such as sand, gravel, shell sand or crushed stone in the minimum amount needed to correct erosion; maintenance of roadside ditches; and the placement of culverts or other water control structures. Roads temporarily constructed or temporarily widened to allow for permitted Forestry Uses on the Protected Property shall be allowed to return to their former size and natural state after this use.

(F) Pathways and Trails. The right to provide and to create and maintain new pathways and trails through the Protected Property, provided such pathways and trails shall be no larger than the minimum width necessary to allow the reasonable passage of a pedestrian, bicyclist, or equestrian, and shall be subject to the provisions of Paragraph 3 pertaining to Endangered Species and Significant Tree Protection. There shall be no paving of any pathway located on the Protected Property with any non-permeable materials.

(G) Burn Piles. The right to create burn piles on the Protected Property for the disposal of combustible refuse generated on the Protected Property, provided there shall be no burning, dumping or deposit of toxic or hazardous substances or household garbage. No burn pile shall endanger trees described in Paragraph 3 relating to Significant Tree Protection. All non-combustible refuse, junk, waste, trash, and garbage shall be disposed of at a location not on the Protected Property.

(H) Vegetation Management, Gardens and Landscaping. The right to manage, cut and remove grass and other vegetation on the Protected Property and to landscape the area along permitted Roads and Driveways and within the Designated Building Area, subject to the provisions of Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands and Significant Tree Protection.

The purpose of this provision is to allow the Grantor to maintain the Protected Property in the condition described in the Baseline Documentation and to create new gardens, landscaping and vistas for the permitted residences, Roads and Driveways while at the same time preserving the natural forest and vegetative cover, wetlands and wildlife habitat on the Protected Property, subject to the provisions in Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands and Significant Tree Protection. In addition, the right is reserved to cut any tree when it is necessary to salvage timber damaged by insect, disease, fire, wind, hurricane or flood damage, or when cutting is necessary to prevent further damage by these agents, or when cutting is necessary to protect a permitted structure.

(I) Routine Maintenance. The right to perform routine maintenance and upkeep of the Protected Property, including the right to maintain existing fields or pastures, consistent with the Purposes of this Conservation Easement. The purpose of this provision is to allow the Grantor to maintain the vegetative cover on the Protected Property in the condition described in the Baseline Documentation.

(J) Upland Ponds. The right to create new upland ponds, defined as man-made features constructed on an upland location that will contain standing water, not exceeding two (2) acres in size individually and five (5) acres in the aggregate over the entire Protected Property, for the purposes of fire protection, Agriculture and Wildlife Management Uses and Equine Activities, subject to the provisions in Paragraph 3 relating to Graveyards and Burial Sites, Freshwater Wetlands, Significant Tree Protection and Endangered Species and subject to compliance with all applicable federal, state and local statutes and regulations. If a new upland pond is constructed as herein permitted, the excavated soil may be removed from the Protected Property with or without compensation.

(K) Docks. Grantor reserves the right to construct, maintain, repair and replace docks on the Protected Property for private Recreational Uses in accordance with any required permits issued by the S. C. Office of Ocean and Coastal Resource Management, subject to the following restrictions and limitations:

I. Grantor may construct, maintain, repair and replace one (1) dock on Bohicket Creek and one (1) additional dock on the Upland Ponds or impounded waters of the Protected Property provided:

a) The permitted dock constructed on Bohicket Creek shall be constructed primarily of natural or non-reflective materials, shall be limited to one (1) walkway no more than four (4) feet wide and the minimum length necessary to reach the first navigable water and one (1) fixed pierhead and one (1) floating platform having a combined size no larger than four hundred (400) square feet in the aggregate.

b) The permitted dock constructed on the Upland Ponds or impounded waters of the Protected Property shall not exceed one hundred fifty (150) square feet in size.

II. Grantor shall not install any Lighting that remains constantly illuminated or that automatically becomes illuminated in darkness.

III. Grantor shall not construct any railings, permanent seating, tables or shelving on any permitted dock's walkway or "catwalk."

(L) Archeological Digs. The right to undertake research, excavation and preservation of archeological sites on the Protected Property; provided:

I. All excavations undertaken for the purpose of archaeology shall be supervised or conducted by professional and accredited archaeologists,

II. Notice is given to the Grantee in accordance with Paragraph 5 herein,

III. Upon completion of any excavation, the topography of the Protected Property is returned to or as close as possible to its natural and original state, and

IV. All items located during archeological digs are preserved and retained on the Protected Property or contributed to a recognized and accredited museum or educational institution. The sale of artifacts from archeological excavation is prohibited.

(M) Lease. The right to lease all or a portion of the Protected Property, it being understood that any such lease shall be subject to this Easement in all respects, is not of a nature or terms as to constitute a Subdivision of the Protected Property, and shall be subject to notice to the Grantee in accordance with Paragraph 5 below if the lease extends or is intended to extend for more than one (1) year.

(N) Signs. The right to post "no trespassing" signs, directional signs, signs indicating and identifying owners, signs indicating the name of the Protected Property and the like, and signs advertising the sale of the Protected Property. In no case shall a sign be larger than twenty-four (24) inches by twenty-four (24) inches nor shall any permitted sign be located in a manner that adversely impacts the view as seen from the public waterways of Bohicket Creek.

(O) Home Based Professional Businesses. The right to conduct any business from a home office in a permitted Residential Improvement, provided that the business is incidental to the residential use of the Residential Improvement, does not involve any displays or signs visible from the exterior of the Protected Property and does not generate traffic greater than the traffic generated by other uses of the Protected Property permitted herein.

(P) Habitat Restoration. The right to use and modify the Protected Property for wetland restoration, maritime forest restoration, longleaf pine forest restoration or any other ecologically appropriate habitat restoration plan to protect and promote biodiversity, particularly related to the native plant community. In addition, Grantor reserves the right to receive funding for any approved habitat restoration activity. This right is subject to approval in accordance with Paragraph 5 below and subject to compliance with all applicable federal, state and local statutes and regulations. It is the purpose of this provision to allow for and encourage the restoration or mitigation of any native species or community impacted by regional habitat alteration.

(Q) Equine Activities. The right to engage in any non-commercial equine activity including but not limited to the fencing, riding, pasturing, breeding, and stabling of horses, subject to the provisions of Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection.

(R) Wildlife Management Uses. The right to conduct activities to conserve, manage, maintain or improve wildlife habitats for a diversity of game and non-game species, subject to the provisions of Paragraph 3 relating to Endangered Species, Graveyards and Burial Sites and Significant Tree Protection, including the following:

I. The right to trap and hunt as needed for predator control subject to all applicable federal, state, and local regulations;

II. The right to maintain and cultivate the agricultural areas and wildlife food plots existing at the time of this Easement and the right to clear and cultivate additional wildlife food plots, each no greater than five (5) acres in size and ten (10) acres in the aggregate;

III. The right to selectively manage the vegetation within the impounded wetlands on the Protected Property in order to maintain open water habitat, to improve biological diversity of native plant and animal species, or to control nuisance species;

IV. The right to participate in any federal or state wildlife management programs, including the right to receive funding for any such management program;

V. The right to research, inventory, and document wildlife use on the Protected Property, including the right to receive funding for any such activity.

(S) Agricultural Structures. The right to construct, maintain, repair and replace new agricultural outbuildings and other structures to allow for permitted Forestry and Agricultural Uses and Equine Activities, provided that all structures to allow for such uses shall not exceed combined size of five thousand (5,000) square feet in the aggregate over the entire Protected Property, except with approval by Grantee in accordance with Paragraph 5, nor individually exceed a height of twenty (20) feet above the ground. The siting of such structures shall be subject to notice to the Grantee in accordance with Paragraph 5 below and subject to the provisions of Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection.

The term "Agricultural Outbuildings" shall refer to any and all sheds for equipment and animals, stables, barns, silos and other structures that are reasonably necessary for the conduct of permitted Agricultural and Forestry Uses and Equine Activities on the Protected Property. In no case does the term "Agricultural Outbuildings" permit the use of any such structure or improvement for habitation by human beings.

For the purposes of this Paragraph, square footage requirements shall refer to the total architectural footprint of the built area inclusive of any associated impervious surfaces including, but not limited to paved parking surfaces and walkways and unenclosed rooflines for all existing and future agricultural outbuildings and other structures.

(T) Recreation Structures.

I. The right to construct, maintain, repair and replace wildlife observation structures to allow for the permitted Recreational Uses on the Protected Property, provided that such structures do not exceed an aggregate size of one hundred (100) square feet over the entire Protected Property nor an individual height of thirty-five (35) feet above the ground. Such structures may include but are not limited to deer stands, tree houses, and observation platforms. In no case does the term "wildlife observation structures" permit the use of any such structure or improvement for habitation by human beings.

II. The right to construct, maintain, repair and replace recreation structures that allow for occasional recreational uses, such as temporary shelter for picnics, provided that such structures do not individually exceed two hundred fifty (250) square feet in size and five hundred (500) square feet in the aggregate over the entire Protected Property, subject to the provisions in Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection. In no case does the term "recreation structures" permit the use of any such structure or improvement for habitation by human beings.

(U) Minerals. The right to harvest, mine and recover any oil, gas and minerals located in or near the Protected Property, provided, however, the Grantor shall comply with state, federal and local law and regulation and be subject to the approval of the Grantee as provided in Paragraph 5. Grantor reserves all interest in minerals found in, on, or under the Protected Property; provided:

I. The mining activity shall be subject to the provisions in Paragraph 3 relating to Endangered Species and Scenic Buffers,

II. Following the mining activity, the topography of the Protected Property will be returned to, or returned as closely as possible to, its natural and original state;

(V) Forestry Uses. The right to conduct any activity relating to forestry uses on the Protected Property including the right to harvest, plant, cultivate and manage timber subject to the provisions of Paragraph 3 relating to Scenic Buffers, Endangered Species, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection and subject to the following guidelines and restrictions:

I. It is the primary purpose of the forest management provisions of this Easement to protect the aesthetics of the native and diverse forest types on the Protected Property. The secondary purpose is to allow the development and maintenance of a productive, uneven-age forest and the harvesting of commercial timber on a sustainable yield basis;

II. Forestry uses shall be in accordance with a written management plan approved by Grantee. The right is reserved to use prescribed burning anywhere on the property, including growing season burning, as a management tool to promote forestry, timber, wildlife habitat and ecosystem management, subject to all applicable local, state and federal statutes and regulations;

III. All logging activities shall meet or exceed the Best Management Practices (BMPs) as recommended by the S.C. Forestry Commission or its successor. No excessive rutting will be allowed;

IV. In no case does the reserved right to conduct forestry uses on the Protected Property permit the wholesale conversion of diverse forest types to monoculture pine or monoculture hardwood production;

V. Forestry uses shall be subject to the Scenic Buffer restrictions in Paragraph 3 relating to Bohicket Creek and shall not materially impair the scenic quality of the Protected Property as viewed from the public waterway of Bohicket Creek or the roadway known as Retriever Road nor the water quality of said waterway and its tributaries;

VI. Selective harvesting strategies used to diversify wildlife habitat while maintaining timber productivity on a sustained basis are limited to single tree and group selection, seed tree and shelterwood regeneration methods and periodic improvement cuts. Clearcutting is specifically prohibited. Restoration and regeneration of pine forest by natural methods is permitted and longleaf pine regeneration is encouraged where effective and feasible;

VII. There shall be limited harvesting in any area identified as swamp forest, bottomland hardwood forest, forested wetland or gum pond only as needed to improve the health and vigor of the remaining forest, or to allow for salvage of damaged or diseased trees.

Notwithstanding the above, the Grantor reserves the right to cut any tree when it is necessary to salvage timber damaged by insect, disease, lightening, hurricane, fire, wind or flood damage, or when cutting is necessary to prevent further timber damage by these agents, or when a structure permitted in Paragraph 4 herein is in danger from a hazardous tree.

Additionally, notwithstanding the above, Grantor reserves the right to create and maintain firebreaks on the Protected Property, including within the Scenic Buffers, as needed for fire protection and timber management.

(W) Agricultural Uses. The right to small-scale, non-commercial agricultural and horticultural activities, subject to the provisions of Paragraph 3 relating to Endangered Species, Scenic Buffers, Freshwater Wetlands, Graveyards and Burial Sites and Significant Tree Protection. Large-scale or commercial agricultural uses, activities or structures are specifically prohibited, it being the purpose of this provision to permit the Grantor to create and maintain a garden for vegetables, herbs and flowers for his own personal use and enjoyment.

(X) Hunting and Fishing. 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.

5. Prior Approval by Grantee.

(A) The exercise of certain rights reserved by the Grantor under Paragraphs 3 and 4 is subject to prior approval by Grantee for such proposed activity or use, which approval shall not be unreasonably withheld. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted 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. In evaluating each request of the Grantor, the Grantee shall take into account each of the following:

I. Whether use of the site for the proposed activity would materially and adversely impair the scenic qualities of the Protected Property that are visible to the general public on Bohicket Creek;

II. Whether use of the site for the proposed activity would destroy or unnecessarily fragment an unreasonable amount of wildlife habitat or wetlands;

III. Whether all reasonable efforts have been made to prevent or minimize disturbance of the Protected Property;

IV. Whether the use of the site for the proposed activity would create an unreasonable amount of impervious surface;

V. Whether the proposed activity or use of the site for the proposed activity would otherwise materially and adversely affect the Purposes of this Conservation Easement or the Conservation Values of the Protected Property.

(B) Any request for Grantee approval of an activity or notification of a new permitted activity shall be made by certified mail, return receipt requested, and accompanied by a reasonable description of the nature, scope, location, timetable, and any other material aspect of the proposed activity, in sufficient detail to permit Grantee to evaluate and monitor such activity. Grantee shall respond to such request within thirty (30) days of confirmed delivery by certified mail or such approval shall be deemed to be granted.

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 Conservation 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 3 and 4.

7. Arbitration. In the event there is a disagreement between the Grantor and the Grantee as to whether or not

i) an activity or use is prohibited under Paragraph 3, or permitted under Paragraph 4; or

ii) the Grantee has acted unreasonably in the exercise of any discretionary power granted to the Grantee, such as not approving certain requests made by the Grantor

(Such disagreements as are described in Paragraphs 7(i) and (ii), above, hereinafter referred to as "Arbitration Issues");

the Grantor and Grantee will attempt amicable resolution of the Arbitration Issues. In the event that amicable resolution is not reached within sixty (60) days of notice of such dispute, by one party to the other, the Arbitration Issue shall be resolved by a committee made up of three individuals who have reasonable experience with conservation easements and land uses of similar properties. One individual shall be selected by the Grantee, one individual shall be selected by the Grantor, and the other individual shall be selected by the two individuals selected by the Grantee and Grantor. The committee shall determine by majority vote the Arbitration Issue. The determination of the committee shall be binding upon the Grantor and the Grantee. Only Arbitration Issues shall be subject to the South Carolina Uniform Arbitration Act. In the event that a dispute includes issues in addition to an Arbitration Issue, the matter shall not be subject to arbitration.

8. **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. In the event 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 of this Conservation Easement, 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 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 of the Protected Property, 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 to the Grantee's stewardship fund dedicated to providing income 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 of the Protected Property, Grantee may pursue its legal and equitable remedies under this Paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire.

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 Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that 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. 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.

9. **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 and 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 attorney's fees) shall be borne by Grantee.

10. **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.

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 by third persons, 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 and the successors in title to the Grantor retain 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, the maintenance of general liability insurance coverage, but excepting any taxes directly to or upon Grantee.

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 the activities of the indemnifying party on the Protected Property.

14. **Percentage Interests in the Fair Market Value of the Protected Property.** For the purpose of this Paragraph 14, the parties hereto stipulate that, as of the date of this sale, the Easement and the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property. Said percentage interests shall be determined by the ratio of the purchase price of the Easement to the value of the Protected Property, without reduction for the value of the Easement, on the date of this sale. The values on the date of this sale shall be the purchase price for this sale and the sales price established by the Grantor immediately following this sale for the Protected Property.

15. **Transfer Fee.** There shall be assessed by the Grantee, and collected from all purchasers of the Protected Property, a transfer fee equal to one (1) percent of the sales price or other consideration paid in connection with the transfer of any interest in such Protected Property, which transfer fee shall be paid to the Grantee at the time of the transfer. 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 conservation 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. Any transfer subsequent to the conveyance of this conservation easement without consideration shall be exempt from the assessment of such transfer fee. 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 received at the time of such transfer. Market value shall be determined by agreement of the Grantor and the Grantee, or in the absence of such agreement by an MAI appraiser selected by the Grantee, whose appraisal fee shall be paid by the Grantee. This Paragraph shall not apply to any transfer of the Protected Property that occurs within ninety (90) days of the date of this Easement.

16. **Extinguishment.** If circumstances arise in the future that render the Purposes of this Conservation Easement 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. Unless otherwise required by applicable law at the time, on the event of any sale of all or a portion of the Protected Property (or any other property received in connection with an exchange or involuntary conversion of the Protected Property) after such

termination or extinguishment, and after the satisfaction of prior claims and net of any costs or expenses associated with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made after the date of this grant, which amount shall be reserved to Grantor) in accordance with their respective percentage interests in the fair market value of this Protected Property. All such proceeds received by Grantee shall be used in a manner consistent with the conservation purposes of this grant. 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.

17. **Condemnation.** If all or a part of the Protected Property is taken, in whole or in part, by exercise of the power of eminent domain, Grantor and Grantee shall be respectively entitled to compensation in accordance with applicable law.

18. **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 to be constructed on the Protected Property other than development or improvements permitted by this Easement on its effective date, and shall not permit any impairment of the Conservation Values of the Protected Property. Grantor and Grantee agree to a 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 Charleston County, South Carolina.

19. **Assignment.** The benefits of this Easement shall be in gross and shall not be assignable by the Grantee, except (i) if as a condition of any assignment, 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 of this Conservation Easement 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 Lowcountry.

20. **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. Grantor further agrees to give written notice to Grantee of the transfer of any such interest within thirty (30) days of the date of such transfer. 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.

21. **Notices.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor:

Estate of Huger Sinkler
c/o Branch Banking and Trust Company
of South Carolina
151 Meeting Street
Charleston, South Carolina 29401

To Grantee: Lowcountry Open Land Trust, Inc.
485 East Bay Street
Charleston, SC 29403

or to such other address as any of the above persons from time to time shall designate by written notice to the others.

22. **Recordation.** Grantee shall record this instrument in timely fashion in the RMC Office for Charleston County, South Carolina, and may re-record it at any time as may be required to preserve its rights in this Easement.

23. **Effective Date.** Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this GRANT OF CONSERVATION EASEMENT is recorded in the RMC Office for Charleston County, South Carolina, after all required signatures have been affixed hereto.

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

25. **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 of this Conservation Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid should be favored over any interpretation that would render it invalid.

26. **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.

27. **Notice of Transfer or Lease.** 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 lease, transfer or sale of all or a part of the Protected Property.

28. **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. The terms "Grantor" and "Grantee", wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and his personal representatives, heirs, assigns, and subsequent owners, and the above-named Grantee and its successors and assigns.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

By Execution of this Easement, the Grantee, the Lowcountry Open Land Trust, Inc. accepts this Conservation 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 easements of record and prescriptive easements, if any, and that the Grantee and its successors and assigns shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

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

Witnesses:

Grantor:

Branch Banking and Trust Company of South Carolina as Successor Personal Representative of the Estate of Huger Sinkler

By: _____

Its: SVP

Witnesses:

Grantee:

Lowcountry Open Land Trust, Inc.

By: _____

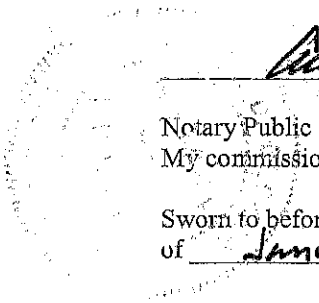
Its: President

And: _____

Its: Treasurer

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me the undersigned Notary, and I do hereby certify that the above named duly authorized officer of Branch Banking and Trust Company of South Carolina as Successor Personal Representative of the Estate of Huger Sinkler personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

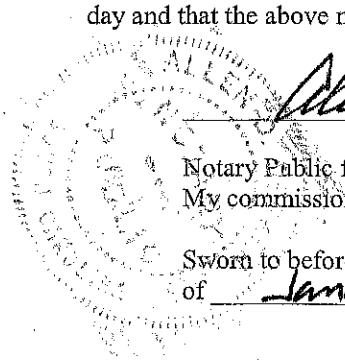


(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: 08/24/2011

Sworn to before me this 21st day
of January, 2003

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me the undersigned Notary, and I do hereby certify that the above named duly authorized officers of Lowcountry Open Land Trust personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.



(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: 08/24/2011

Sworn to before me this 21st day
of January, 2003

EXHIBIT A

Legal Description of Protected Property

ALL that certain lot, piece or parcel of land, situate, lying and being on Wadmalaw Island, County of Charleston, State of South Carolina, and being shown as Lot 3 Bohicket Farms (now known as Rosebank Estates), containing 22.77 acres, more or less, all as shown on that certain plat entitled "Bohicket Farms Wadmalaw Island, Charleston County, S.C. Resurvey of Lots 1 & 2 and Proposed Resubdivision of Lots 3-7 containing 172.03 acres" dated September 17, 2001, prepared by Lewis E. Seabrook, PE & LS No. 09860, which plat is recorded on December 20, 2001 in the RMC Office for Charleston County in Plat Book EF at Pages 250 & 251, (the "Plat") and having such size, shape, dimensions, buttings and boundings as will appear by reference to said Plat.

- ALSO -

All of Grantor's right, title and interest, if any, in and to Marsh Lot 3 lying adjacent to and to the south of Lot 3 as shown on the Plat. Marsh Lot 3 shall be owned and conveyed in conjunction with Lot 3 and the title to said Marsh Lot 3 shall not be separated or severed from the title to Lot 3.

- ALSO -

A non-exclusive, transmissible easement for access, ingress and egress from Rosebank Road (a public road) over and upon Retriever Road (a private road) running from Rosebank Road to the northern boundary of the above described Lot, all as is shown on the Plat. The easement is a commercial easement in gross, essential and necessary for access to and from the said Lot and to Rosebank Road and shall inhere to and run with the title to Lot 3.

The Grantor reserves unto itself and its successors and assigns the absolute right and option, in its sole discretion, to move the above described access easement from Retriever Road to the area shown as "Existing 150' Private R/W (5,305.93' to Maybank Hwy.)" on the Plat ("Swamp Road") if the Grantor, its successors and assigns provide a new access road through the Swamp Road area which complies with the applicable regulations and standards of Charleston County. This reservation does not and shall not create or grant to Grantee or the public any rights or easements in the area shown as "Existing 150' Private R/W" on the Plat or on the area referred to as Swamp Road.

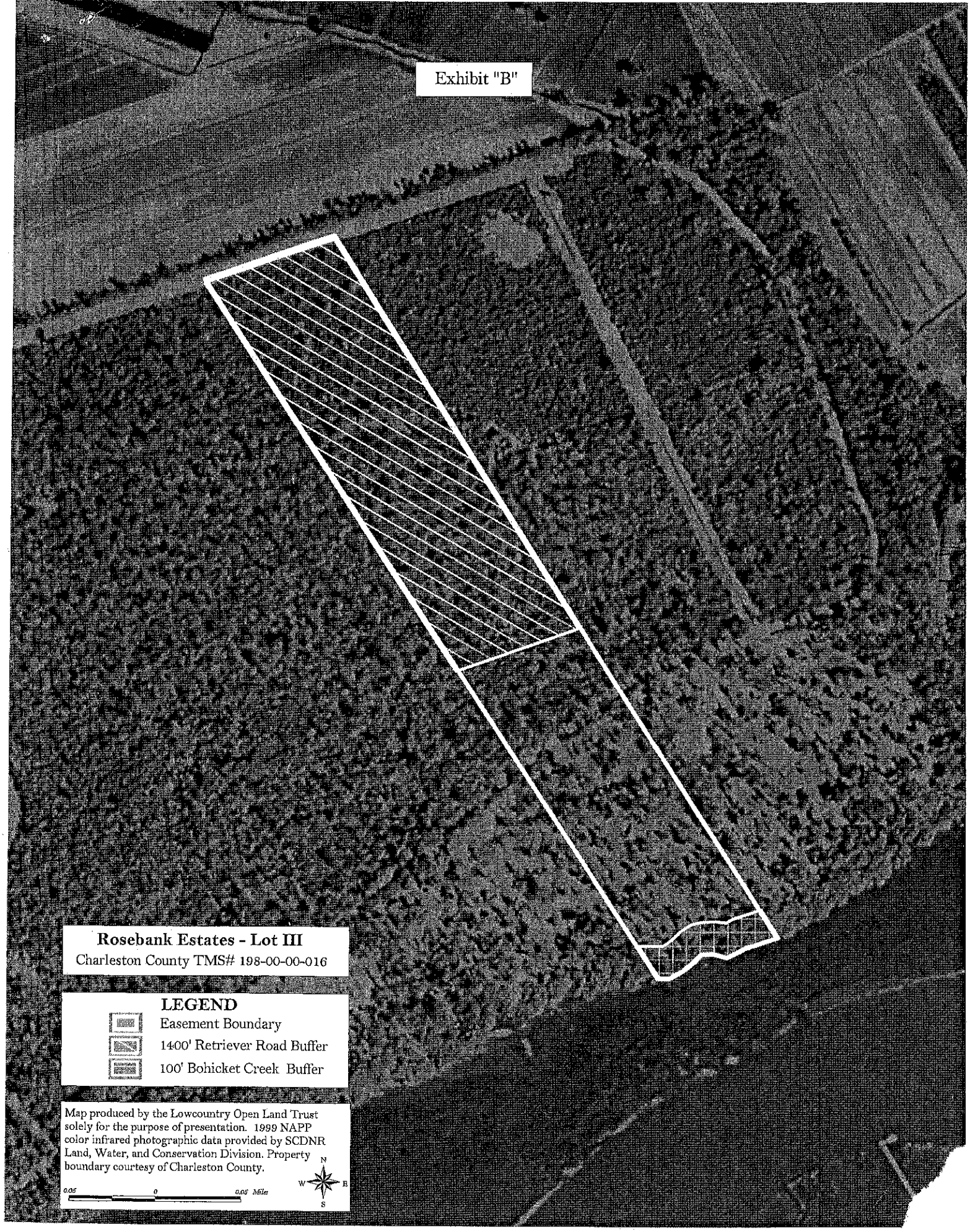
The Grantor reserves unto itself and its successors and assigns, the absolute right to use Retriever Road for access ingress and egress and for the installation, maintenance and repair of utilities and drainage facilities for the benefit of Grantor's remaining property.

The above described property is conveyed subject to the Declaration of Covenants and Restrictions for Rosebank Estates, Wadmalaw Island, Charleston County, South Carolina recorded in the RMC Office for Charleston County in Book B-395 at Page 285 and the By-Laws of Rosebank Estates Property Owners Association.

Being a portion of the property conveyed to the Grantor by Deed of the Estate of Huger Sinkler dated October 21, 1992, and recorded on October 21, 1992, in Book **M-219** at Page **42** in the RMC Office for Charleston County, South Carolina.

TMS No. 198-00-00-016

Grantee's Address: 485 East Bay Street
Charleston, SC 29403



BK P 433PG533

BK P 433PG534

Lowcountry Open Land Trust
485 E. Bay St
Chas. SC
29403

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CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AMENDMENT TO CONSERVATION EASEMENT ON ROSEBANK ESTATES LOT III

THIS AMENDMENT (the "Amendment") to the Grant of Conservation Easement (the "Conservation Easement") dated January 21, 2003, by **Branch Banking and Trust Company as Successor Personal Representative of the Estate of Huger Sinkler** (the "Original Grantor") and the **Lowcountry Open Land Trust, Inc.** ("LOLT") is made as of this 13 day of September, 2004, by and between LOLT and **Lanstar, LLC** ("Current Owner").

WHEREAS, the Original Grantor granted the Conservation Easement to LOLT by instrument dated January 21, 2003, and recorded January 21, 2003, in Book **P-433** at Page **512** in the RMC Office for Charleston County, South Carolina which encumbered Rosebank Estates Lot III in Charleston County, South Carolina; and

WHEREAS, the Original Grantor conveyed Rosebank Estates Lot III to Current Owner by deed dated January 21, 2003, and recorded January 21, 2003, in Book **P-433** at Page **566** in the RMC Office for Charleston County, South Carolina; and

WHEREAS, Current Owner continues to be the owner of Rosebank Estates Lot III which encumbered acreage is more fully described on the attached Exhibit "A" (the "Property"); and

WHEREAS, by accepting the Conservation Easement, LOLT has agreed to perpetual stewardship responsibilities; and

WHEREAS, in support of these perpetual responsibilities, LOLT has drafted an additional clause benefiting LOLT's Stewardship fund through future sales of the Property; and

WHEREAS, LOLT has asked Current Owner to consider amending the Conservation Easement with the additional clause and Current Owner has agreed to do so; and

WHEREAS, LOLT has determined that this Amendment does not lessen the conservation values being protected and is permitted by the provisions of Paragraph 18 of the Conservation Easement.

NOW, THEREFORE, IN CONSIDERATION of the above and the covenants, terms, conditions and restrictions contained herein as well as the Conservation Easement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Current Owner and LOLT hereby amend the Conservation Easement as it relates to the Property as follows:

1. Except as otherwise defined in this Amendment, all terms shall have the meaning ascribed to them in the Conservation Easement.

2. The following paragraph shall be inserted in its entirety as Paragraph 15, thereby replacing in its entirety the existing Paragraph 15:

Transfer Fee. There shall be assessed by the Grantee, and collected from all purchasers of the Protected Property, a transfer fee equal to one-half of one (0.5) percent of the sales price or other consideration paid in connection with the transfer of any interest in such Protected Property, which transfer fee shall be paid to the Grantee at the time of the transfer. This sum shall be placed in Grantee's stewardship fund, or such similarly named successor fund, to finance Grantee's efforts to uphold its duties and responsibilities under the Easement on the Protected Property as well as on Grantee's other protected properties. 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. Any transfer subsequent to the conveyance of this Easement without consideration or to a spouse, a lineal descendant, a spouse of a lineal descendent (collectively, "Immediate Family Members"), or to an entity at least 50% of the equity interest of which is owned by an Immediate Family Member or to a trust whose presumptive beneficiaries are the grantor or an Immediate Family Member, or to a charitable organization which is tax exempt under 501(c)(3), shall be exempt from the assessment of such transfer fee. An exchange of properties pursuant to Internal Revenue Code §1031, or similar statute, shall be deemed to be for consideration based on the market value of the property received at the time of such transfer. Market value shall be determined by agreement of the Grantor and the Grantee, or in the absence of such agreement by an MAI appraiser selected by the Grantee, whose appraisal fee shall be paid by the Grantee.

3. Except as modified by this Amendment, all provisions of the Conservation Easement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to the Conservation Easement as of the date first above written.

IN THE PRESENCE OF:

Anna C Nygaard
Witness No. 1 as to LOLT

Witness No. 2 as to LOLT

LOWCOUNTRY OPEN LAND TRUST, INC.

By: [signature]
Its: President

By: Douglas C. Platt
Its: Treasurer

LANSTAR, LLC

By: _____
Its: Member

Witness No. 1 as to Lanstar, LLC

Witness No. 2 as to Lanstar, LLC

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the above named duly authorized officers of LOWCOUNTRY OPEN LAND TRUST personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

SWORN to before me this 13 day of September 2004.

Notary Public for South Carolina
My Comm. Expires: January 28, 2014

STATE OF South Carolina)
) ACKNOWLEDGMENT
COUNTY OF Charleston)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the above named duly authorized officer of LANSTAR, LLC personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

SWORN to before me this 18 day of August, 2004.

Notary Public for South Carolina
My Comm. Expires: 11-13-12

Exhibit A
Property Description

ALL that certain lot, piece or parcel of land, situate, lying and being on Wadmalaw Island, County of Charleston, State of South Carolina, and being shown as Lot 3 Bohicket Farms (now known as Rosebank Estates), containing 22.77 acres, more or less, all as shown on that certain plat entitled "Bohicket Farms Wadmalaw Island, Charleston County, S.C. Resurvey of Lots 1 & 2 and Proposed Resubdivision of Lots 3-7 containing 172.03 acres" dated September 17, 2001, prepared by Lewis E. Seabrook, PE & LS No. 09860, which plat is recorded on December 20, 2001 in the RMC Office for Charleston County in Plat Book EF at Pages 250 & 251, (the "Plat") and having such size, shape, dimensions, buttings and boundings as will appear by reference to said Plat.

- ALSO -

All of Grantor's right, title and interest, if any, in and to Marsh Lot 3 lying adjacent to and to the south of Lot 3 as shown on the Plat. Marsh Lot 3 shall be owned and conveyed in conjunction with Lot 3 and the title to said Marsh Lot 3 shall not be separated or severed from the title to Lot 3.

- ALSO -

A non-exclusive, transmissible easement for access, ingress and egress from Rosebank Road (a public road) over and upon Retriever Road (a private road) running from Rosebank Road to the northern boundary of the above described Lot, all as is shown on the Plat. The easement is a commercial easement in gross, essential and necessary for access to and from the said Lot and to Rosebank Road and shall inhere to and run with the title to Lot 3.

The Grantor reserves unto itself and its successors and assigns the absolute right and option, in its sole discretion, to move the above described access easement from Retriever Road to the area shown as "Existing 150' Private R/W (5,305.93' to Maybank Hwy.)" on the Plat ("Swamp Road") if the Grantor, its successors and assigns provide a new access road through the Swamp Road area which complies with the applicable regulations and standards of Charleston County. This reservation does not and shall not create or grant to Grantee or the public any rights or easements in the area shown as "Existing 150' Private R/W" on the Plat or on the area referred to as Swamp Road.

The Grantor reserves unto itself and its successors and assigns, the absolute right to use Retriever Road for access ingress and egress and for the installation, maintenance and repair of utilities and drainage facilities for the benefit of Grantor's remaining property.

The above described property is conveyed subject to the Declaration of Covenants and Restrictions for Rosebank Estates, Wadmalaw Island, Charleston County, South Carolina recorded in the RMC Office for Charleston County in Book B-395 at Page 285 and the By-Laws of Rosebank Estates Property Owners Association.

Being a portion of the property conveyed to the Current Owner by deed of Original Grantor dated January 21, 2003 and recorded on January 21, 2003, in Book **P-433** at Page **566** in the RMC Office for Charleston County, South Carolina.

TMS No. 198-00-00-016

LOLT Address: 485 East Bay Street
Charleston, SC 29403