

to the Savannah River, would help preserve water quality in the South Carolina Piedmont; and

- D. Significant natural areas containing relatively natural habitat of fish, wildlife, and/or plants, associated with loblolly pine forest; and

WHEREAS, the Protected Property has a diversity of relatively natural habitats including evergreen upland forest, mixed upland forest, open fields and open water, 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, 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 in its existing relatively natural condition contributes very little nonpoint source pollution to the adjacent creeks and waterways due to the buffers surrounding all watercourses 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 preservation of open space (including farm and forest land) is recognized in the following governmental conservation policies:

- A. The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. Section 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;
- B. South Carolina's right-to-farm law, as codified in S.C. Code Sections 46-45-10 to -70, which states in part that "The policy of the State is to conserve, protect, and encourage the development and improvement of its agricultural land and facilities to produce food and other agricultural products", and;
- C. The Conservation Bank Act, S.C. Code Ann. § 48-59-10, *et seq.*, declares that "protection of open space by acquisition of interests in real property from willing sellers is essential to ensure that the State continues to enjoy the benefits of wildlife

habitats, forestlands, farmlands, parks, historical sites, and healthy streams, rivers, bays, and estuaries; for recreational purposes, for scientific study, for aesthetic appreciation, for protection of critical water resources, to maintain the state's position as an attractive location for visitors and new industry, and to preserve the opportunities of future generations to access and benefit from the existence of the state's outstanding natural and historical sites", and;

- D. The S.C. Conservation Easement Act of 1991, S.C. Code Ann. § 27-8-10, *et seq.*, has a purpose of "ensuring the availability of real property for agricultural, forest, recreational, educational or open space use"; and
- E. South Carolina's preferential tax laws for agricultural land, as found in S.C. Code Sections 12-43-220 to -260, as amended, provide for a preferential tax rate for agricultural land in order for such lands to remain in productive agricultural uses; and
- F. The North American Wetlands Conservation Act, P.L. 101-233, 16 U.S.C. Section 4401, *et seq.*, whose purposes include the protection of "wetland ecosystems and habitats associated with wetland ecosystems and other fish and wildlife in North America" and sustaining "an abundance of waterfowl and other wetland associated migratory birds consistent with the goals of the "North American Waterfowl Management Plan" and similar plans.

WHEREAS, the Protected Property possesses significant ecological and natural resources, water quality protection, open space and scenic value, and historic or cultural values (collectively the "Conservation Values") of great importance to **Grantor** to **Grantee** and to the people of Greenwood County, South Carolina, and this nation; and

WHEREAS, the specific Conservation Values 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, and the parties agree that the Baseline Documentation, more fully defined in Paragraph 26, 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 with the 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 in perpetuity; and

WHEREAS, Grantee agrees to enforce the terms of this Conservation Easement to ensure the preservation and protection of the Conservation Values of the Protected Property in perpetuity for the benefit of **Grantee** and its successors and assigns; 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, 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 Internal Revenue Service Code §170(h)(4)(A)(ii), "open space (including farmland and forest land) as that phrase is used in Code §170(h)(4)(A)(iii) and "an historically important land area or a certified historic structure" as that phrase is used in Internal Revenue Service Code §170(h)(4)(A)(iv) 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 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 Internal Revenue Service 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 Internal Revenue Service Code §501(c)(3) and not a private foundation under Internal Revenue Service Code §509 dedicated to the preservation of the irreplaceable natural and historical resources of the South Carolina Piedmont landscape by protecting significant lands, waters and vistas;

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 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; 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 such as for education and recreation 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 over Sandridge Baptist Church Road provided that such right shall not be construed to permit general public access over or upon the Protected Property; and

(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 and manmade features of the Protected Property; In addition, Grantor hereby grants and conveys unto Grantee, its successors and assigns, the easement and right of Trust and its agents to enter upon and inspect the Property, with access over and across the Property if necessary, for compliance with this Conservation Easement at any time and from time to time, provided that Grantor is first given notice of any such visit, at least seven (7) days in advance, except in cases of suspected or known violations of this Conservation Easement; and

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

(D) **Right to Require Restoration.** To require Grantor or third parties 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; 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:

a. 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; and

b. 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; and

c. The activities will not adversely affect the Conservation Values; and

d. 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 the following terms appear throughout this Easement and shall be defined as follows:

(A) **Agricultural Activities** are activities directly related to the production, harvesting, and/or storage of plant and/or animal products on the Protected Property, including, but not limited to, the means of production, and/or the improvement and maintenance of lands for the production of crops, animal husbandry, floriculture, and horticulture in a manner that preserves the long-term productivity of the soil; and

(B) **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; and

(C) **Approval** shall be defined as the prior written consent of the **Grantee** to permit **Grantor** to exercise certain rights, 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 are consistent with the Purposes of this Conservation Easement. Approval shall not be unreasonably withheld, conditioned or delayed by the **Grantee**, and

(D) **Building Height** shall be measured, for the purposes of any permitted structure, from the ground or the legal building elevation as defined by Greenwood County, whichever is greater, to the top of the highest structural component, excluding chimneys, antennas, weather vanes, and solar panels; and

(E) **Commercial Recreation** shall be defined as provision of recreation-related products or services by private (or public) enterprise for a fee; and

(F) **Commercial Use/Activity** shall be defined as any use or activity making or intending to make a profit; and

(G) Limited Commercial Activities: activities of limited scope and impact making or intending to make a profit are sometimes permissible under the terms of a Conservation Easement when stipulated; and

(H) Feedlot shall be defined as any confined area or facility for feeding animals within which the land is not grazed or cropped at least annually or which are used to receive livestock that have been raised off the Protected Property for feeding and fattening for market; and

(I) Forest Management Practices shall be defined as the production, improvement and maintenance of forest lands for timber production, wildlife management, aesthetics or any other purpose and include silviculture 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, thinning, reforestation, prescribed fire or fire breaks; and

(J) 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; and

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

(L) Impervious Surface shall be defined as a hard surface area which either prevents or retards the entry of water into the soil mantle at a rate lower than that present under natural conditions prior to development, such surfaces include, but are not limited to, roof tops, walkways, patios and decking, enclosed and unenclosed porches, driveways, parking lots, or storage areas, concrete or asphalt paving, swimming pools, or other surfaces which similarly impede the natural infiltration of surface and storm water runoff; and

(M) Natural Areas are areas of unique scenic, historic, geologic or ecological value and of sufficient size and character so as to allow its maintenance in a *natural* condition by the operation of physical and biological processes, usually without direct human intervention; and

(N) Notice shall be defined as a written communication, prior to undertaking a permitted activity, as defined in Paragraph 19; and

(O) Ordinary High-Water Mark shall be, according to the Army Corps of Engineers: "That line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the

character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas”; and

(P) Passive Recreation is recreational use by the general public that requires minimal development or facilities. Examples include hiking and biking and generally occur in a relatively natural environment; and

(Q) Related Outbuilding shall be defined as any auxiliary structure customarily used as an accessory to a private Residential Structure in the South Carolina Piedmont, not including any structure used as a permanent or temporary dwelling for human beings; and

(R) Residential Structure shall be defined as Main Houses and Secondary Houses; and

(S) Setback Line shall be considered one hundred (100) feet of any stream, creek or river unless otherwise designated by **Grantee** in the Baseline Documentation; and

(T) Significant Tree shall be defined as any hardwood tree having a diameter at breast height of sixteen (16) inches or greater; and

(U) Subdivided Tract is a transferable parcel of land separate and distinct from the original parcel(s) comprising the Protected Property, which is created from said original parcel(s) after the date of this Easement; provided, however, any Subdivided Tract will continue to be a portion of the Protected Property; and

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

4. Reserved Rights. **Grantor** reserves all the rights, uses and activities (collectively, the “Reserved Rights”) inherent in fee simple ownership, including but in no way limited to those rights specifically expressed in subparagraphs A through M of this paragraph, 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.

(A) **Fences.** Grantor have the right to maintain, repair, and/or replace fences on the Protected Property, and the right to construct, maintain, repair and replace fences around Subdivided Tracts, provided that such construction, maintenance, repair, and/or replacement does not violate the Purpose of this Easement or harm the Conservation Values of the Protected Property.

(B) **Leases.** Grantor retains the right to lease or grant other less-than-fee interests in all or a portion of the Protected Property for any use permitted to the Grantor under this Easement, with income derived from exercised reserved rights by Grantor, provided that such lease or other interest is consistent with and subject to the terms of this Easement and is not of a nature or terms as to constitute an impermissible subdivision of the Protected Property.

(C) **Landfill.** Grantor retains the right to have a landfill not to exceed an aggregate one half (1/2) acre, for the dumping of refuse and garbage generated solely and exclusively by activities on the Protected Property. Such disposal of refuse and garbage shall be conducted in a reasonably sanitary manner, provided that there shall be no dumping or deposit of toxic or hazardous substances or wastes. The location and design of the landfills shall be subject to Grantee's prior written approval, and such approval shall not be unreasonably withheld, conditioned or delayed. This right is limited to the extent required for the interests conveyed by this Easement to qualify as a qualified conservation contribution under the Code and does not violate the Purpose of this Easement or harm the Conservation Values of the Protected Property.

(D) **Agriculture.** Subject to the limitations on activities set forth in the definition of Agricultural Activities in Paragraph 3 above, Grantor retains the right to engage in not-for-profit and for-profit agricultural, farming and aquacultural activities provided the same is conducted in a manner consistent with the Purposes of the Easement, and the right to locate, construct, and maintain watering facilities and ponds. Permitted agricultural activity must be consistent with the maintenance and enhancement of soil composition, structure, and productivity, and may not result in pollution or degradation of any waters or have a detrimental effect upon fish or wildlife, their natural habitat or upon the natural ecosystem and its process.

(E) **Agrichemicals.** Grantor retains the right to use agrichemicals, including, but not limited to, fertilizers, biocides, herbicides, and rodenticides, but only in those amounts and with that frequency of application constituting the minimum necessary to accomplish reasonable agricultural and residential activities permitted by the terms of this Easement and in accordance with label instructions. Notwithstanding the foregoing sentence, no use of agrichemicals will be

made if such use would result in (i) unlawful contamination of any source of water or (ii) any significant impairment of any natural ecosystem or process on the Protected Property.

(F) **Borrow Pits.** Grantor retains the right to have one (1) borrow pit, not to exceed one half (1/2) acre, to provide required fill material for non-commercial use solely and exclusively on the Protected Property, such as for repairing roads, and not for the purpose of resale. This right, and any right to extract or remove minerals, is limited to the extent required under Section 170(h) (5) (B) of the Code for the interest conveyed by this Easement to qualify as a qualified conservation contribution and does not violate the Purpose of this Easement or harm the **Conservation Values** of the Protected Property.

(G) **Paths and Trails.** Grantor retains the right to engage in passive recreation and to construct and maintain footpaths, equestrian trails, boardwalks, tent camping sites and wildlife observations platforms, along with appropriate signage for education, directions or safety.

(H) **Public Access, Public Recreation and Fees:** Grantor retains the right to grant public access to the Property under such restrictions, terms and conditions as may seem to them appropriate so long as such access is compatible with the Conservation Values. Grantor retains the right to engage in public recreation and to construct educational and recreational group camping sites, platforms, tents and canvas or similar material walled structures and to permit outdoor recreation, including hiking, equestrian activities as described in 5.(R) below, camping, fishing, boating, cycling, ropes and obstacle courses, archery, Frisbee throwing, jogging, running, sports competitions, and other similar outdoor events and activities (excepting field trials, rodeos and the like, which are forbidden) and that are compatible with the Conservation Values of the Property. Grantor retains the right to charge reasonable fees for such access and uses.

(I) **Ecological Research.** Grantor retains the right to install forest or other ecological research equipment, experimental areas, perform studies in wetlands, pine plantations and natural or planted forests of hardwood or mixed species that could include, but is not limited to, weed control, fertilization, installation of weather stations, installation of towers for raising instrumentation above the canopy, and excavation of root systems.

(J) **Forestry Uses.** Grantor reserves the right to cut trees only when necessary to prevent personal injury, when a permitted structure is in danger, or as may be advisable for good forestry or agricultural practices to maintain the overall health and beauty of the

property. Timber harvested under the provisions of this paragraph shall be cut pursuant to Best Management Practices prescribed by the South Carolina Forestry Commission under a management plan prepared by a South Carolina registered forester and approved by the Grantee.

(K) Educational Uses and Fees. Grantor reserves the right to permit the Property to be used for field trips, day camps, Scout campouts, Master Naturalist Program, nature interpretation programs and other educational purposes that are compatible with the Conservation Values of the Property. Grantor retains the right to charge reasonable fees for such uses.

(L) Social Events and Fees. Grantor retains the right to permit small Scout Jamborees, weddings, reunions, church picnics and the like, all only as may be compatible with the Conservation Values of the Property and Grantor retains the right to charge reasonable fees for such uses.

(M) Consistent Uses. Grantor has the right to engage in any and all acts or uses not expressly prohibited herein that are not inconsistent with the Purposes of this Easement.

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 One (1) Tract. For purposes of this easement, all tracts will be considered one parcel and there shall be no subdivision of any Tract within the Protected Property.

If Grantor transfers one or more of the parcels in separate transactions, Grantor shall allocate between the resulting parcels the total allowable reserved rights in Section 4. Said allocation shall be reflected in any document or instrument which creates and/or conveys the parcels.

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

a. Maintenance of Existing Structures: Grantor may maintain, repair, and improve existing residences, ancillary structures, and all existing patios, decks, and impervious surfaces, which are particularly described in the Baseline Documentation,

provided **Grantor** obtains **Grantee's** written Approval of **Grantor's** plan for the location and construction of removal, replacement or expansion of the existing single-family residence before any work begins.

b. **New Structures:** No new single-family residence and new ancillary structures may be constructed.

c. **Dwelling Restriction:** Other than permitted residential structures, no other structure on the Protected Property shall be used as a temporary or permanent dwelling for human beings.

d. **Other Structures and Towers:** The only structures that shall be permitted on the property other than those otherwise permitted in this conservation easement are agricultural structures, buildings and barns in support of activities and uses permitted under this instrument, all to be compatible with the Conservation Values and all subject to the approval of the **Grantee** as to size, design and location, such approval not to be unreasonably withheld, conditioned or delayed. There shall be no towers on the protected Property.

(C) **Buffers.** **Grantor** shall not remove or cut any trees or otherwise alter or disturb any area of the Protected Property that is within one hundred (100) feet of the ordinary high-water mark of any other river, stream or waterway with the limited exceptions of:

- a. Removing trees that are dead;
- b. Removing trees that are substantially damaged or threatened by natural causes (*e.g.* – insect, disease, *etc.*) when it is necessary to maintain the ecological health of the affected forest community;
- c. Removing trees that pose a significant and immediate hazard to life or property;
- d. Cutting, removing, or eradicating any plant which is recognized by state or federal natural resource authorities to be a non-indigenous species;
- e. Except as allowed in Section 4(G);
- f. For roads, bridges, and trails constructed or restored in accordance with Section 4;
- g. Maintaining the existing fields within the Riparian Buffer area, which are more particularly described in the Baseline Report;

- h. Performing ecological enhancements in accordance with a professionally prepared plan and following written Approval by **Grantee**, or
- i. removal of trees around ponds and watercourses identified in the baseline.

In addition, **Grantor** shall take all steps reasonably necessary to keep horses, cattle, and other livestock out of all rivers, streams, waterways, ponds, lakes, or impoundments on the Protected Property.

(D) 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.

(E) Commercial Uses. There shall be no commercial uses, activities or structures, other than limited commercial activities, home-based business, agricultural activity, sale of farm products and those uses specifically permitted under this conservation easement, without prior Approval by the **Grantee**. Approval shall not be unreasonably withheld, conditioned or delayed 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.

(F) Services. Construction of water wells, septic systems, and utility services is limited to serve the allowed uses allowed on the Protected Property, 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.

(G) 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 paving of any road with non-permeable materials except as may be required by governmental authority.

(H) Signs. Signs shall be placed so as to minimally impact the scenic view as seen from any public roadway or waterway.

(I) 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, except for sale of items of a financial nature, such as coins or gold or silver bars or other forms of current or historical legal tender.

(J) Hunting. Hunting on the Protected Property shall be limited to those practices that do not cause harm to the Conservation Values of the property.

(K) Agricultural Uses. Agricultural Activities are restricted to the scientifically based practices, currently in use at the time of the implementation of such activities, recommended by the South Carolina Cooperative Extension Service, the United States Natural Resources Conservation Service, their successors or other entities. 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.

(L) Ponds. The total acreage of new and existing Pond(s) shall be limited to five (5) acres in the aggregate, and shall be in compliance with all applicable local, state and federal statutes and regulations. The sale of soil, sand, gravel or other materials produced in connection with the enlargement or construction of Pond(s) is strictly prohibited, as in accordance with Paragraph 5(N) Mining and Paragraph 5(E) Commercial Uses. All proposed activities must comply with the Purposes as outlined in Paragraph 1.

(M) Impoundments. Grantor reserves the right to create, improve, repair, replace or maintain new or existing and/or historic wetland impoundments, green tree reservoirs, dikes, ditches and water control structures, subject to all applicable local, state and federal statutes and regulations. The Grantor and Grantee recognize impoundments as beneficial to waterfowl and other wetland dependent plants and animals.

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

(O) Topography, Hydrology Ditches, and Wells. There shall be no alteration of the topography or hydrology, unless otherwise provided for in Paragraph 5. Existing manmade ditches may be maintained or replaced. New ditches may be installed for permitted uses. Wells may be installed, maintained, and replaced as needed.

(P) Refuse and Motor Vehicles. There shall be no placing of refuse, vehicle bodies or parts, or junk not generated on the Protected Property. **Grantor** shall ensure that use of tractors, all-terrain-vehicles (ATVs), and other vehicles do not have a significant negative impact on the Conservation Values. In fulfillment of the Primary Purposes, **Grantee** shall have the right to prohibit or restrict vehicular use and to require restoration where appropriate.

(Q) Open Fields. **Grantor** shall have the right to maintain the current open fields on the Protected Property, which are more particularly described in the Baseline Report, and to establish and maintain additional open field sites provided:

- a. The total open field area shall not exceed seventy five (75) percent of the total acreage of the Protected Property;
- b. **Grantor** undertake all reasonable measures to avoid or minimize adverse ecological impacts during establishment of the fields;
- c. No part of any newly-established field is located within the Riparian Buffer established under Section 4; and
- d. Existing fields within the Riparian Buffer, may be maintained in accordance with Section 4 hereof.

(R) Equestrian Uses. Equestrian use of the protected property is limited to exercising, riding, providing riding lessons, breeding, trail riding, boarding and housing of horses, mules and donkeys. Horse camping and other low impact equestrian uses shall be permitted. All activities shall be compatible with the preservation of the Conservation Values. There shall be no rodeos or field trials or similar events on the Protected Property.

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. 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, 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, 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 but reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, 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 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. 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 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.

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 they have no knowledge of a release or threatened release of hazardous substances or wastes on the Protected Property and promise 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 by third parties, 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 the maintenance of general liability insurance coverage.

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. Extinguishment. If this Easement is extinguished by judicial proceeding, **Grantee** shall be entitled to a portion of the proceeds from any subsequent sale or other disposition of the Property, calculated in accordance with the Paragraph below. **Grantee** shall use its portion of said proceeds in a manner consistent with the general conservation purposes of this Easement.

The donation of this Easement gives rise to a property right, immediately vested in **Grantee** which, for purposes of calculating proceeds from a sale or other disposition of the Property as contemplated under the above paragraph, shall have a value equal to a percentage (the "Proportionate Share") of the value of the Property unencumbered by this Easement. The Proportionate Share shall be determined by dividing the value of this Easement, calculated as of the date hereof, by the unencumbered value of the Property, also calculated as of the date hereof. The Proportionate Share shall remain constant.

Unless state law provides otherwise, if this Easement is terminated and the Property is subsequently sold, exchanged, or taken in condemnation then, as required by Treas. Reg. Sec. 1.170A-14(g)(6), **Grantor** shall be entitled to a portion of the proceeds from the sale, exchange or condemnation equal to the Proportionate Share.

15. 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) 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. **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 Greenwood County, South Carolina.

16. Assignment. The benefits of this Easement 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 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 another qualified conservation organization. The **Grantee** shall not assign this Easement to a governmental entity without the prior written consent of the **Grantor** except as provided in this paragraph.

17. Transfers. **Grantor** agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which **Grantor** transfer 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.

18. **Representation of Title.** Grantor represents and warrants that they own valid, fee simple absolute title to the Protected Property and have the right to grant and convey this Conservation Easement and that the Protected Property is free and clear of any and all encumbrances, except easements of record, prescriptive easements, and mortgages or liens that have been subordinated to this Conservation Easement.

19. **Communication.** All Notices, demands, requests, consents, Approvals, offers, statements, and other instruments or communications required or permitted to be given hereunder (individually or collectively "Correspondence") shall be deemed sufficiently given or rendered only if in writing delivered personally, sent by a nationally recognized overnight courier, or sent by United States Postal Service first class certified mail, postage prepaid, return receipt requested, addressed as follows:

If to **Grantor**:
Mr. Stephen L. Davis
1319 Highway 72-221 East,
Greenwood, SC 29649

If to **Grantee**:
Upper Savannah Land Trust
430 Helix Road
Greenwood, SC 29646

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 Section 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.

21. **Recordation.** Grantee shall record this instrument in timely fashion in the Office of the Register of Menes Conveyance for Greenwood County, South Carolina, and may re-record it at any time as may be required to preserve its rights in this Easement.

22. **Effective Date.** Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Easement is recorded in the Office of the Register of Menes Conveyance for Greenwood County, South Carolina; after all required signatures have been affixed hereto.

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

24. **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.

25. **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.

26. **Baseline Documentation.** Grantee acknowledges, by its acceptance of the Easement, that Grantor's historical and present uses of the Property are compatible with the Purposes of the Easement. To establish a present condition of the Conservation Values so as to be able to properly monitor future uses of the Property and insure compliance with the terms hereof, Grantee has prepared or caused to be prepared the Baseline Documentation. The Baseline Documentation shall be used to assist in establishing the condition of the Property as of the date of this Easement. Grantor and Grantee acknowledge and agree that in the event a controversy arises with respect to the nature and extent of Grantor's historical and present use of the physical condition of the Property subject to the Easement as of the date hereof, the parties may look beyond the Baseline Documentation, if necessary, to other relevant or material documents, surveys, reports, and other evidence showing conditions at the time of execution of this Easement to assist in the resolution of the controversy.

27. 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 Section, Subsection, 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 unto **Grantee** forever.

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

GRANTOR HEREBY WARRANTS and represent that except exceptions noted in Exhibit B, and for encumbrances for leases of not more than one year of certain portions of the property, recorded and unrecorded, the **Grantor** is seized of the Protected Property in fee simple and have 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 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 multiple duplicate original copies of this Easement under seal on the day and year first above written.

EXHIBIT "A"
PROPERTY DESCRIPTION

All that tract or plantation of land situate, lying and being in the County of Greenwood, State of South Carolina containing Three Hundred Thirty and Three-Fourths (330-3/4) acres, more or less, and being bounded, now or formerly, on the North by lands of W.H. Mays Estate, lands of Mrs. Virginia Timmerman and E. McManus; on the East by road separating this land from land of Miss Carrie Mae McDowell; on the South by lands of Owings Horne, lands of United States National Forest and Ansel Adams; and on the West by lands of W. H. Mays Estate.

This being a portion of the property conveyed to Eden Hall, LP by deed of Davis Land & Timber Limited Partnership dated July 25, 2012 and recorded July 31, 2012 in Deed Book 1320 at Page 274 in the Office of the Clerk of Court for Greenwood County.

Greenwood County Tax Parcel ID. No. 6890-357-691 and 6890-542-823