

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

**Conservation Easement**

**For Selkirk Plantation, L.L. C.  
Wadmalaw Island**

**Charleston County  
South Carolina**

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Conservation Easement

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Carolina, as recorded in South Carolina Code Ann. (1976, as amended) Section 27-8-10 et. seq. (The South Carolina Conservation Easement Act of 1991), the State of South Carolina recognizes and authorizes the creation of conservation restrictions and easements; and as recorded in South Carolina Code Ann. (1990, as amended) Section 27-8-20, the State of South Carolina recognizes and authorizes the Lowcountry Open Land Trust, Inc. to hold conservation easements; and

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WHEREAS, the Grantee is a corporation whose purposes and powers include one or more of the purposes set forth in SC Code Ann. Section 27-8-20(1) authorizing Grantee to be a holder of conservation easements as contemplated by the South Carolina Conservation Easement Act of 1991; and

WHEREAS, the current open space and wildlife habitat management uses of the Protected Property, under Grantor's direction, have promoted and enhanced the Conservation Values of the Protected Property; and

WHEREAS, the specific Conservation Values of the Protected Property are documented in a report to be held on file at the offices of the Grantee and incorporated herein by this reference (hereinafter "Baseline Documentation"), which consists of documentation that the parties agree provides, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor believes that with the intelligent and careful use of conservation easements, the natural and historic resources, habitat, beauty, and unique ecological character of the Protected Property can be preserved in a manner that permits continuing private ownership of land and its subsequent use and enjoyment; and

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WHEREAS, Grantor intends to preserve and protect the Conservation Values of the Protected Property in perpetuity; and

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WHEREAS, Grantor is willing to forego forever the right to exploit fully the financial potential of the Protected Property by encumbering the Protected Property with a Conservation Easement;

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NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to Section 170(h) of the Internal Revenue Code of 1986 and the laws of the State of South Carolina, as amended, Grantor hereby voluntarily grant and convey to Grantee and 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

"Conservation 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. Purpose. It is the purpose of this Conservation Easement to assure that the Protected Property will be retained forever in predominantly its natural, scenic and open space condition, subject to the rights and privileges reserved by the Grantor. It is also the purpose to prevent any use of the Protected Property that will adversely and materially 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. (Hereinafter these will be known as the "Purposes of this Conservation Easement.")

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

(A) Right of Visual Access. To have visual access to and view of the Protected Property in its 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 at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property;

(C) Right to Prevent Inconsistent Uses. To ensure that the Protected Property is used in a manner consistent with its historical use as a family recreational, educational, forestal, agricultural and hunting retreat or for educational and scientific research purposes and to prevent Grantor or third persons from conducting any activity on or use of the Protected Property that is inconsistent with the Purposes of this Conservation Easement;

(D) Right to Require Restoration. To require of Grantor or third persons the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use; and

(E) Right of Discretionary Consent. IF, owing to

"Conservation 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.

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(E) Right of Discretionary Consent. If, owing to



unforeseen or changed circumstances, any of the activities prohibited by this Conservation 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 the following limitations:

- I. The activities do not violate the Purposes of this Conservation Easement.
- II. The activities either enhance or do not impair any significant conservation interests associated with the Protected Property.
- 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 Conservation Easement.
- IV. In no case shall the Grantee or Grantor have the right to agree to allow any residential, commercial or industrial structures or any commercial or industrial activities not provided for at the time of this grant of a Conservation Easement on the Protected Property.

3. Prohibited Uses. Subject to the reserved rights set forth in 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, except as reserved in Paragraph 4;

(B) Commercial & Industrial Uses. There shall be no commercial or industrial uses of the Protected Property, except for those rights reserved in Paragraph 4(F), (G), (H) and (S) hereunder pertaining to forestry, agriculture, aquaculture and home-based businesses. 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 commercial or industrial activity prohibited by this Conservation Easement;

(C) 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 or natural deposit, except as reserved and with the restrictions provided for in Paragraph 4(T);

(D) Structures & Signs. There shall be no construction or placement of temporary or permanent buildings, mobile homes, docks, boat ramps, bridges, piers, radio transmission antennas, utility transmission poles or any other structures, nor shall

To: [unclear]  
From: Linda [unclear]

there be any construction or placement of any advertising signs, billboards or other advertising materials on the Protected Property, except as permitted in Paragraph 4(C), (D), (L), and (Q);

(E) Topography. There shall be no uses of the Protected Property that would materially and adversely alter the topography, water systems, wetlands or habitat on the Protected Property, except as permitted in the management of impoundments, as provided in Paragraph 4(M);

(F) Road Buffers. There shall be established a scenic buffer on Liberia Road and on Bear's Bluff Road within which there shall be a 50 foot buffer zone adjacent to the roadway in which routine maintenance of existing vegetation is allowed and a 100 foot buffer zone adjacent to the 50 foot buffer zone in which there shall be no cutting or clearing of existing overstory and understory vegetation including trees, shrubs and herbaceous vegetation. Limited cutting or thinning to insure the health and vigor of the vegetative buffer is permitted, but shall not materially impair its scenic quality.

It shall be the purpose of this provision to maintain the natural and opaque vegetative buffer on public roads in order to screen property uses and preserve the rural scenic values of the Protected Property as viewed by the public;

(G) River Buffer. Grantors shall not destroy any existing mature tree, defined as having a diameter at breast height of twelve (12) inches or greater, on the high land fronting Leadenwah Creek and its tributaries. There shall be maintained a 75-foot-wide scenic buffer on the waterfront, as measured from the critical line, as determined by the S.C. Department of Ocean and Coastal Resource Management.

Any clearing of the understory vegetation within this scenic river buffer in order to provide a view from permitted structures on the Protected Property shall be limited to the minimum amount necessary and shall not involve clearing more than 25 percent of the total water frontage on each building parcel, as defined in Paragraph 4(B).

It shall be the purpose of this provision to maintain the scenic values of the existing mature tree and vegetative cover as seen by the public from Leadenwah Creek, while permitting Grantor to clear, mow and maintain the understory in a manner that permits a view of the creek from permitted residential structures. It shall also be the purpose of this provision to prevent clearing or cutting that would create an unobstructed lawn from a house or other structure to Leadenwah Creek or its tributaries;

(H) Wetlands. There shall be no dredging, construction of ponds, groins, or dikes within any natural wetlands or waterways, nor any manipulation of natural water courses except as may be required by governmental authorities or to enhance wildlife,

waterfowl or wading bird habitat, or to engage in aquaculture as provided in Paragraph 4 and 6. There shall be no timber management or agricultural practices nor any new structures, buildings or improvements located within 75 feet of any natural wetlands or waterways, except as provided in Paragraph 4 (C)VII, without prior written approval of Grantee;

(I) Roads. There shall be no paving of any roadway located within the Protected Property with asphalt or other impermeable material. Roads may be topped with permeable surfaces such as dirt, gravel, shell, or other materials that are natural to the Lowcountry. Roads constructed or widened to allow timber harvesting or to provide firebreaks on the Protected Property shall be returned to their former size or natural state after this use.

At no time shall Grantor, their heirs or assigns, for any reason short of condemnation proceedings, deed ownership of the roads within the Protected Property to a public or private agency other than to a community association comprised of the owners of the Protected Property;

(J) Dumps, Underground Storage Tanks. There shall be no installation of ~~underground storage tanks or the 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. One (1) plantation borrow pit for sand or gravel for use on the Protected Property and one (1) plantation bring pit for disposal of non-hazardous waste generated on the Protected Property shall be permitted, subject to applicable federal, state and local statutes;

(K) Lighting. There shall be no lighting of any portion of the Protected Property with ~~unshielded mercury vapor lights, street lights or other unshielded lights in excess of 1750 lumen,~~ except that special lighting may be permitted for localized areas with the express approval in writing from Grantee, in accordance with Paragraph 5.

It is the purpose of this provision to prevent light pollution from intruding on the rural, scenic values of the Protected Property or on Leadenwah Creek;

(L) Live Oaks, Magnolias. The Grantor shall protect and preserve mature live oak and mature magnolia trees on the Protected Property, defined as having a ~~diameter at breast height~~ of 12 inches or greater. Grantor shall not cut, girdle or prune in such a manner as to impair the health of the mature live oak or mature magnolia trees without the prior written approval of the Grantee, in accordance with Paragraph 5. Such approval shall be granted if the Grantor's actions are required to preserve or protect an existing structure;

(M) Hunting. There shall be no commercial or other trapping, hunting, shooting, fishing or interfering with the animal population on the Protected Property except for those rights reserved by Grantor under Paragraph 4(I). Neither the Grantor nor any lessee of the Grantor shall charge the sportsmen who hunt and/or fish on the Protected Property daily use fees, daily admission fees or other similar daily "pay to hunt" fees;

(N) Exotics. There shall be no introduction of invasive exotic plant or animal species, without the Grantee's prior written consent, except for those species traditionally and prevalently used for wildlife food planting in the Lowcountry as of or prior to the date of this Conservation Easement; and

(O) Inconsistent Use. There shall be no other uses of the Protected Property or activity which would impair its significant conservation interests unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Conservation Easement nor shall there be any use that is inconsistent with the Purposes of this Conservation Easement.

4. Reserved Rights. The provisions of Paragraph 3 notwithstanding, the following rights, uses and activities by Grantor shall be permitted by this Conservation Easement;

(A) The right to engage in all acts or uses not expressly prohibited herein;

(B) The right to subdivide the property into not more than thirty (30) building parcels and one (1) open space area, (hereinafter the "Building Parcel(s)" and "Open Space Area"), subject to the following guidelines and restrictions:

- I. The Open Space Area need not be one contiguous or adjacent tract, but may consist of several tracts of open land.
- II. Part or all of the Open Space Area may be subdivided and attached to enlarge a permitted Building Parcel.
- III. In no case shall the subdivision of any part the Open Space Area be construed to permit a new Building Parcel in excess of the 30 Building Parcels permitted under this Conservation Easement.
- IV. The subdivision of any or all Building Parcels and the Open Space Area shall be subject to notice to the Grantee, in accordance with Paragraph 5;

(C) Improvements. The right to construct or relocate residential, recreational and agricultural improvements on the Protected Property, subject to the following guidelines and restrictions:

*4/1 4/1*  
1 2  
1 2  
  
3 4,500  
3 guest houses

Residences.

On each Building Parcel less than twelve (12) acres, the right to construct one (1) single family residence, not to exceed 4,500 square feet exclusive of porches, and one (1) guest house or apartment or related outbuilding not to exceed 1,800 square feet inclusive of porches. On each Building Parcel twelve (12) acres or larger, the right to construct two (2) residences each not to exceed 4,500 square feet exclusive of porches and two (2) guest houses not to exceed 1,800 square feet inclusive of porches.

II. Clubhouse Facility.

In the Open Space Area, the right to construct one (1) clubhouse facility, it being understood that such facility is not to be used as a temporary or permanent dwelling of any kind.

III. Community Storage Building.

In the Open Space Area, the right to construct one (1) community storage building for the use of the owners of the Protected Property to store boats, trailers and other equipment.

V. Wildlife Observation Rooms.

In the Open Space Area or on Building Parcels the right to construct wildlife observation rooms, each not to exceed 100 square feet of enclosed space, each not to be served by any utility or septic service, and each not to be used as a dwelling place for humans or animals.

VI. Agricultural Improvements.

In the Open Space Area or on Building Parcels, the right to construct, repair and maintain new barns, sheds, related buildings, fencing, paddocks and other structures only as are reasonably necessary in connection with the forestry and agricultural uses of the Protected Property.

VII. Restrictions.

- a) No new structures shall exceed 50 feet in height, subject to applicable federal, state or local regulations,
- b) No new structures or improvements permitted in

this section shall be sited closer than (75) feet to any ponds, streams, wetlands, or tidal waters, except for Lots 2,3,4 and 9 identified in Appendix B which shall not be sited closer than 50 feet to any ponds, streams, wetlands, or tidal waters.

- c) No new septic drain field shall be located closer than 150 feet to any streams, wetlands, or tidal waters, except for Lots 2,3,4 and 9 identified in Appendix B which shall not be sited closer than 50 feet to any streams, wetlands, or tidal waters. The siting and installation of all septic drain fields shall be in accordance with existing government regulations, and
- d) The right to construct permitted improvements shall be subject to notice to the Grantee, as provided in Paragraph 5D;

(D) Docks. The right to construct for each Building Parcel either one (1) deep water dock or (1) crabbing dock, (hereinafter, "Deep Water Dock(s)" and "Crabbing Dock(s)") on the Protected Property, subject to the requirements of local, state and federal statutes and to the following guidelines and restrictions:

- I. Permitted docks shall extend no further than the first navigable depth of water on the main channel of Leadenwah Creek.
- II. There shall be no installation on any dock of lighting that shines permanently, or lighting that automatically switches on in darkness, or of lighting that violates the provisions of Paragraph 3(K).
- III. On each permitted Deep Water Dock,
  - a.) the pierhead shall be no larger than 144 square feet,
  - b) there shall be no more than one attached floating dock, except when one deep water dock is for the use of more than one Building Parcel, then two (2) floating docks shall be allowed. Each floating dock shall be no larger than 160 square feet,
  - c) a boat lift and a roof are permitted
  - d) there shall be no construction of any railings, additional levels, enclosures or superstructures.
  - e) It is recommended that construction of the

dock, boat lift and roof are done in such a way as to maintain the integrity of the existing view from the water as much as is feasible.

- IV. On each permitted Crabbing Dock, the pierhead shall be no larger than 100 square feet, there shall be no more than one attached floating dock except when one Crabbing dock is for the use of more than one Building Parcel, then two (2) floating docks shall be allowed. Each floating dock shall be no larger than 120 square feet, and there shall be no construction of any railings, roofs, additional levels, enclosures or superstructures, but there shall be permitted a small boat lift.

(E) Create Gardens & Vista. The right to create gardens and provide a view of Leadenwah Creek from permitted residences, provided that the provisions of Paragraphs 3(G) and (L) governing river buffers and live oak and magnolia trees are followed and the limited cutting and clearing does not materially and adversely affect the Purposes of this Conservation Easement;

(F) Forestry. The right to conduct any activity relating to Forestry Uses of the Protected Property, as hereinafter defined, subject to the management provisions of Paragraph 6. For the purpose of this Conservation Easement, "Forestry Uses" shall include the planting, growing, stocking, storing and distribution of trees of any size capable of producing timber and other wood products; and the cutting and sale of timber and other wood products;

(G) Agricultural Uses. The right to conduct any activity relating to Agricultural Uses of the Protected Property, as hereinafter defined, subject to the management provisions of Paragraph 6. For the purpose of this Conservation Easement, "Agricultural Uses" shall include uses for agriculture, animal husbandry, floraculture, and horticulture, the breeding, training, showing, sale and any other commercial activity relating to horses, dogs and other livestock; and the production and sale of plant and animal products, grown or produced on the Protected Property for domestic or commercial purposes;

(H) Aquaculture Uses. The right to conduct any activity relating to Aquaculture Uses of the Protected Property, as hereinafter defined, subject to a management plan approved by the Grantee, in accordance with Paragraph 5, and subject to the management provisions of Paragraph 6. For the purpose of this Conservation Easement, "Aquaculture Uses" shall include: the breeding, raising, production and sale of freshwater finfish, shellfish, mollusks and seaweeds;

(I) Hunting, Fishing. The right to engage in any outdoor

recreational activities, including hunting and fishing, that are not disruptive of the natural environment and are in compliance with all applicable federal, state and local statutes and regulations. Also reserved is the right to the long-term lease of hunting and fishing rights on the Protected Property, subject to the prohibitions on daily "pay to hunt" fees outlined in Paragraph 3(M);

(J) Roads. The right to construct new roads as are reasonably necessary to access the permitted residences and support the agricultural and forestal uses of the Protected Property, subject to the provisions governing roads in Paragraph 3(I) and to notice to the Grantee, in accordance with Paragraph 5. Also reserved is the right to pave with asphalt or other impermeable material the transition only from county road to unpaved road and only as required by Government regulation. It is the recommendation of the Grantee to prevent the installation of all impermeable road surfaces in order to better protect the Conservation Values of the Protected Property ;

(K) Prescribed Burning. The right to use prescribed burning anywhere on the property, including growing season burning, as a tool for forest management and wildlife habitat enhancement;

(L) Repair, Remodel. The right to repair, remodel, expand or replace permitted buildings, structures and roads on the Protected Property, subject to the limitations as to size, number, height, site, approvals, etc. contained in this Conservation Easement with respect to such permitted structures and roads;

(M) Managed Wetlands. The right to repair and manage existing and historic ponds, impoundments and dikes and to create and manage new ponds, impoundments and dikes for the purpose of wildlife habitat enhancement, agriculture and fire protection, subject to all applicable local, state and federal statutes and regulations and subject to notice to the Grantee, in accordance with Paragraph 5;

(N) Utility Services. The right to drill for water on the Protected Property and to make available water wells, septic systems, local utility services and watering systems for any permitted structures on the Protected Property;

(O) Maintenance & Salvage. The right to cut and remove grass or other vegetation on the Protected Property, and to perform routine maintenance and upkeep, consistent with the Purposes of this Conservation Easement. Also reserved is the right to salvage timber anywhere on the property that is damaged by insect, disease, fire, wind or flood damage, to cut any tree when necessary to prevent further timber damage by these agents and to cut any tree when a house or some other structure is in danger from a hazardous tree, all subject to notice to the Grantee as



provided in Paragraph 5;

(P) Clearing. The right to selective cutting or clearing of vegetation for habitat enhancement and protection, fire protection, trail and road maintenance, the preservation of vistas or otherwise to preserve the present condition of the Protected Property. The right to selective clearing is subject to the provisions protecting road buffers, river buffers and mature live oak and magnolia trees, as outlined in Paragraph 3;

(Q) Signs. The right to post "no trespassing" signs, directional signs, signs indicating and identifying occupancy and signs advertising the sale of the Protected Property. No signs shall exceed 12 inches by 18 inches in size except for one sign advertising the sale of the Protected Property, which shall not exceed 30 inches by 36 inches in size;

(R) Leasing. The right to lease all or a portion of the Protected Property, it being understood that any such lease shall be subject to this Conservation Easement in all respects and subject to the provisions for notice to Grantee as outlined in paragraph 5;

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

(T) Minerals. The right to harvest, mine and recover any oil, gas and minerals located in or near the Protected Property is reserved, provided, however, the Grantor shall comply with state, federal and local statute and regulation and shall be subject to the written 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. There may not at any time be any extraction or removal of the minerals by any surface mining method.
- II. There may not at any time be used any method of mining that is inconsistent with the Purposes of this Conservation Easement.
- III. Any permitted method of mining shall have only limited localized impact on the Conservation Values of the Protected Property and no mining activity shall occur within any particularly ecologically sensitive or important areas of the Protected

Property, such as bottomland hardwood wetlands or scenic buffers.

- IV. The mining activity shall not be irremediably destructive of the significant Conservation Values of the Protected Property.
- V. Following the mining activity, the topography of the Protected Property will be returned to or as close as possible to its natural and original state.

5. Prior Approval by and Notice to Grantee.

(A) The exercise of certain rights reserved by the Grantor <sup>OWNER</sup> under Paragraph 4 is subject to the prior approval by Grantee <sup>FOR</sup> <sub>LOW COUNTRY</sub> such proposed activity, which approval shall not be unreasonably withheld, or is subject to notice to the Grantee. In evaluating each Grantor request, the Grantee shall take into account the following considerations:

- 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.
- II. Whether use of the site for the proposed activity would destroy an unreasonable amount of wildlife habitat.
- III. Whether use of the site for the proposed activity would destroy an unreasonable amount of prime agricultural soils, productive forest land or the integrity of wetland areas.
- IV. In the case of any proposal to build new structures, whether significant new road construction would be necessary to provide access to the site to the extent that the Purposes of this Conservation Easement would be materially impaired.
- 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;

(B) Any request for Grantee approval of an activity or notice of a new activity as permitted shall be made by certified mail, return receipt requested, and shall be 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. Where Grantee approval is required, Grantee shall respond within 30 days of such notice or approval will be deemed to have been granted;

(C) 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 planned agricultural lease or sale of all or a part of the Protected Property;

(D) 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, such as a timber harvest or sale, the subdivision or sale of portions of the Protected Property and the construction of improvements on the Protected Property. Grantor shall also keep the Grantee reasonably informed as to the identity of any third parties who are conducting or managing such activities; and

(E) The Grantor shall provide a copy of this Conservation Easement to any person who obtains possession, ownership or control of the Protected Property prior to such person acquiring an interest in the Protected Property.

6. Forestry, Agriculture & Aquaculture Management. For the Purposes of this Conservation Easement, the reserved rights to conduct activities in connection with the Forestry, Agriculture and Aquaculture Uses of the Protected Property shall be subject to the following guidelines and restrictions:

(A) Forestry. It shall be the primary purpose of any forest management activities to preserve the forest diversity on the Protected Property and it shall be the secondary purposes to harvest timber on a sustained yield basis, to harvest timber through single tree selection, to encourage natural regeneration in harvested areas, to use prescribed burning, particularly growing season burning, as a forest management tool, and to encourage the maintenance of a productive forest of diverse classes and ages.

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

All forest management activities shall meet or exceed current best management practices as recommended by the S.C. Forestry Commission, its successor or by other such government or private natural resource conservation and management agencies or organizations then active.

Forest management activities shall not materially impair the scenic quality of the Protected Property as viewed from public

waterways, public roads or public trails nor the water quality of Leadenwah Creek and its tributaries nor the Conservation Values of wetland areas on the Protected Property.

Forest management and timber practices which lead to the destruction of mature live oak and magnolia trees, road and river buffers and wetlands, all as defined in Paragraph 3, are prohibited;

(B) Agriculture. All management activities undertaken in connection with the Agricultural Uses of the Protected Property shall be in accordance with the current scientifically based practices recommended at the time in question by the United States Cooperative Extension Service, the United States Soil Conservation Service, or such other government or private natural resource conservation and management agencies or organizations then active.

Such activities shall not materially impair the scenic quality of the Protected Property as viewed from Leadenwah Creek nor the water quality of the wetlands and other tributaries on the Protected Property.

Livestock and agricultural activities shall exclude swine and be confined to fenced fields and pastures, which may include a pond as a water source for livestock.

Agriculture management activities which lead to the destruction of mature live oak and magnolia trees, road or river buffers or wetlands, all as defined in Paragraph 3, are prohibited.

The use of any agricultural chemicals and biocides in connection with Agricultural Uses shall be in accordance with applicable federal, state and local regulations. Grantor shall use reasonable efforts not to use chemicals or biocides which are inconsistent with the Purposes of this Conservation Easement.

Grantor shall not apply any chemicals or biocides within 100 feet of any streams, creeks, rivers, ponds, wetlands, or tidal waters, except for those approved for aquatic use by state or federal regulatory agencies;

(C) Aquaculture. All aquaculture activities shall be in accordance with the current scientifically based practices recommended at the time in question by the S.C. Department of Health & Environmental Control, S.C. Department of Natural Resources, S.C. Cooperative Extension Service and S.C. Marine Extension Program, or such other government or private natural resource conservation and management agencies or organizations then active.

All aquaculture activities shall be in accordance with applicable federal, state and local statutes.

Prior to engaging in any aquaculture activities, the Grantors shall provide Grantee with an operations plan to ensure that environmental impacts, particularly water quality impacts, shall be minimized or eliminated from such activities.

The creation of new ponds, impoundments, dikes or other structures for aquaculture shall not materially impair the

Conservation Values of the Protected Property and shall be subject to prior written approval by the Grantee, as provided in Paragraph 5; and

(D) Third Party Activities. The Grantor shall insure that all third parties who are conducting activities relating to Agriculture and Forestry Uses on the Protected Property are fully and properly informed as to the restrictions and covenants contained within this Conservation Easement which relate to such activities, including without limitation, the provisions of this Paragraph and of Paragraph 3 and 4.

7. Arbitration. In the event there is a disagreement between the Grantor and the Grantee as to whether or not i) the Grantor has acted unreasonably in the exercise of any discretionary power reserved by the Grantor, such as approving certain requests made by the Grantee; or ii) the Grantee has acted unreasonably in the exercise of any discretionary power granted to the Grantee, such as approving certain requests made by the Grantor (collectively "Arbitration Issues"), 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 Conservation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation 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 purpose of the Conservation Easement, to restore the portion of the Protected Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee (or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, if Grantee shall fail to begin curing such violation within said thirty (30) 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 Conservation 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 Conservation 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 apply any damages recovered to the cost of undertaking any corrective action on the Protected Property. 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 Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation 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 Conservation Easement, without the necessity of providing 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 Conservation Easement, any costs incurred by Grantee in enforcing the terms of this Conservation 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 Conservation Easement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Conservation Easement, Grantor's cost of suit, including without limitation, reasonable attorneys' fees, shall be borne by Grantee.

10. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any terms of this Conservation 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 Conservation Easement or of any of Grantee's rights under this Conservation 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 Conservation 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, 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 Conservation 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.

The Grantor agrees to hold harmless, defend and indemnify the Grantee Parties from any and all liability, including but not limited to injury, losses, damages, judgments, reasonable attorney fees, costs and expenses that the Grantee may suffer or incur as a result of the negligence, recklessness or intentional tort of the Grantor Parties on the Protected Property. The Grantee agrees to hold harmless, defend and indemnify the Grantor Parties from any and all liability, including but not limited to injury, losses, damages, judgments, reasonable attorney fees, costs and expenses that the Grantor may suffer or incur as a result of the negligence, recklessness or intentional tort of the Grantee Parties on the Protected Property. For purposes of the preceding sentences only, the term "Grantee Parties" shall mean the members, directors, officers, partners, agents, employees, contractors and invitees of the Grantee and the term "Grantor Parties" shall mean the members, directors, officers, partners, agents, employees, contractors, and invitees of the Grantor.

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 grant, the Conservation 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 value of the

Conservation Easement on the date of this grant to the value of the Protected Property, without reduction for the value of the Conservation Easement, on the date of this grant. The values on the date of this grant shall be those values used to calculate the deduction for Federal Income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue code of 1986, as amended. The parties shall include the ratio of those values with the Baseline Documentation of the Protected Property (on file at Grantee's offices) and shall amend such values, if necessary, to reflect any final determination thereof by the Internal Revenue Service or court of competent jurisdiction. For the purposes of this paragraph, the ratio of the value of the Conservation Easement to the value of the Protected Property unencumbered by the Conservation Easement shall remain constant, and the percentage interests of Grantor and Grantee in the fair market value of the Protected Property thereby determinable shall remain constant.

15. Extinguishment. If circumstances arise in the future that render the purpose of this Conservation Easement impossible to accomplish, this Conservation 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.

16. 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.

17. Limitations on Amendment. If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Conservation Easement; provided that no amendment shall be allowed that will adversely affect the qualification of this Conservation Easement or the status of Grantee under any applicable laws, including Section



170(h) of the Internal Revenue Code of 1986, as amended. Any such amendment shall be consistent with the purpose of this Conservation 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 Conservation Easement on its effective date, and shall not permit any impairment of the Conservation Values of the Protected Property. Any such amendment shall be recorded in the official land records of Charleston County, South Carolina. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

18. Assignment. The benefits of this Conservation 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 Conservation Easement continue to be carried out in full as provided herein, and (ii) if the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under South Carolina law as an eligible donee to receive this Conservation Easement directly. In the event that Grantee ceases to exist or exists but no longer as a tax-exempt, non-profit corporation, qualified under Section 501(c)(3) and 170(h)(3) of the Internal Revenue Code of 1986, as amended, then this Conservation Easement shall automatically become vested in the following tax-exempt, non-profit organizations, qualified under Section 501(c)(3) and 170(h)(3) of the Internal Revenue Code of 1986, as amended, in the order of priority as listed below:

1. Wetlands America Trust, Duck's Unlimited
2. The Nature Conservancy of South Carolina

or to another qualified charitable conservation organization with a mission to permanently protect open lands and/or natural, cultural or historic resources.

19. Transfers. Grantor agrees to incorporate by reference the terms of this Conservation 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 at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Conservation Easement or limit its enforceability in any way contained in this Conservation Easement and otherwise evidences the status of this Conservation Easement as may be requested by Grantor.

20. 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 certified mail, return receipt requested, postage pre-paid, addressed as follows:

To Grantor: Selkirk Plantation, L.L.C.  
c/o Mrs. JoAnn Parker, or her assigns,  
Omniflight, Inc.  
4650 Airport Parkway  
Dallas, TX 75248

To Grantor's Attorney:  
Mrs. Susan Smythe  
Buist, Moore, Smythe & McGee  
5 Exchange Street  
Charleston, SC 29401

To Grantee: Lowcountry Open Land Trust, Inc.  
456 King 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.

21. 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 Conservation Easement.

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

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

24. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purposes of Grantee. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the

provision valid should be favored over any interpretation that would rend it invalid.

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

26. Entire Agreement. The covenants, terms, conditions and restrictions of this Conservation 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.

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

By Execution of this Conservation 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 Conservation 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.

By execution of this Conservation Easement, the Grantee, the Lowcountry Open Land Trust, Inc. accepts this Conservation Easement and the rights and obligations recited herein.

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

Witnesses:

Grantor:

Sutor M Smythe  
[Signature]

By: Selkirk, L.L.C.  
Its [Signature] member

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Grantee:

Lowcountry Open Land Trust,  
Inc.

By: \_\_\_\_\_

Its: \_\_\_\_\_

And: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

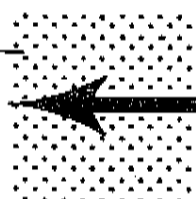
PROBATE

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named representative of Selkirk Plantation, L.L.C., Anna Pulker, its member sign, seal and as their act and deed, deliver the within written Conservation Easement and that s(he) with the other witness subscribed above witnessed the execution thereof.

*Anna Pulker*

Sworn to before me this 15<sup>th</sup> day of May, 1997

Sutton M. Smythe  
Notary Public for the State of South Carolina  
My commission expires: 11/29/2006



STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

PROBATE

PERSONALLY appeared before me the undersigned witness who,  
being duly sworn, deposes and says that (s)he saw the within named  
LOWCOUNTRY OPEN LAND TRUST, INC., by and through its duly  
authorized officers, \_\_\_\_\_ and  
\_\_\_\_\_, as its \_\_\_\_\_ and  
\_\_\_\_\_, sign, seal and as the act and deed of said  
corporation, accept the within written Conservation Easement and  
that s(he) with the other witness subscribed above witnessed the  
execution thereof.

---

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 1997

Notary Public for the State of South Carolina  
My commission expires: \_\_\_\_\_

Exhibit A

Property Plat & Description

ALL those tracts or parcels of land situate, lying and being on Wadmalaw Island, in the County of Charleston, State of South Carolina, consisting of that portion of Selkirk Plantation located west of Liberia Road, measuring and containing 799.617 acres of high land, more or less, together with the marsh adjacent thereto, which is comprised of (i) a tract containing 744.054 acres, more or less, (ii) an island containing 14.903 acres, more or less and (iii) an island with a causeway containing 40.660 acre, more or less, each as more fully shown on that certain plat dated August 8, 1983 entitled "PLAT OF LANDS TOTALING 923.176 ACRES LOCATED ON LIBERIA ROAD, WADMALAW ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," by George A.Z. Johnson, Jr., and recorded in the RMC Office for Charleston County in Plat Book AY, Page 31. Said property having such size, shape, buttings and boundings as are shown on said plat, reference to which is made for a more complete description.

Being a portion of the property conveyed to JoAnn A. Parker by Deed of Distribution from Daniel S. Parker to JoAnn Parker recorded in the RMC Office for Charleston County in Book Y-220, Page 527, which property was subsequently conveyed to JoAnn A. Parker Real Estate Trust dated November 22, 1993 by Deed of JoAnn A. Parker dated January 16, 1996 and recorded in the RMC Office for Charleston County in Book N-265, Page 556, and subsequently conveyed to JoAnn A. Parker by Deed of JoAnn A. Parker Real Estate Trust dated November 22, 1993, said deed dated May 31, 1996 and recorded in the RMC Office for Charleston County in Book V-269, Page 734 on June 3, 1996, and the same property conveyed to Selkirk Plantation, LLC by Deed of JoAnn A. Parker dated May \_\_, 1997 and recorded in the RMC Office for Charleston County simultaneously herewith.

Portion of TMS No. 155-00-00-001

AND

ALL that piece, parcel or tract of land, known as part of "Selkirk Plantation", situate, lying and being on the southeast side of Bears Bluff Road on Wadmalaw Island, beginning at a point 1292 feet southwest of Liberia Road, in Charleston County, South Carolina, containing 35.47 acres and being shown and designated as Tract B on a plat entitled, "Plat showing Subdivision of Property on Wadmalaw Island, Charleston County, S.C., owned by Gabriella Lewis & Ellen P. Lewis" by W.L. Gaillard dated December 20, 1979, and recorded in the RMC Office for Charleston County in Plat Book AP, Page 30.

Said Tract B consists of 31.87 acres of high land and 3.6 acres formerly marsh now lake, and has such location, shape, courses, distances, buttings and boundings as are shown on said plat. Said Tract B is more particularly shown on said plat. Said Tract B is more particularly delineated on said plat as follows: Beginning at an iron pipe on the southeast right-of-way line of Bears Bluff Road at a point 1292 feet southwest of Liberia Road, as the point of beginning, and continuing thence south 25 degrees 30 minutes east, 1007 feet to an iron pipe; thence south 63 degrees west,

140657.1

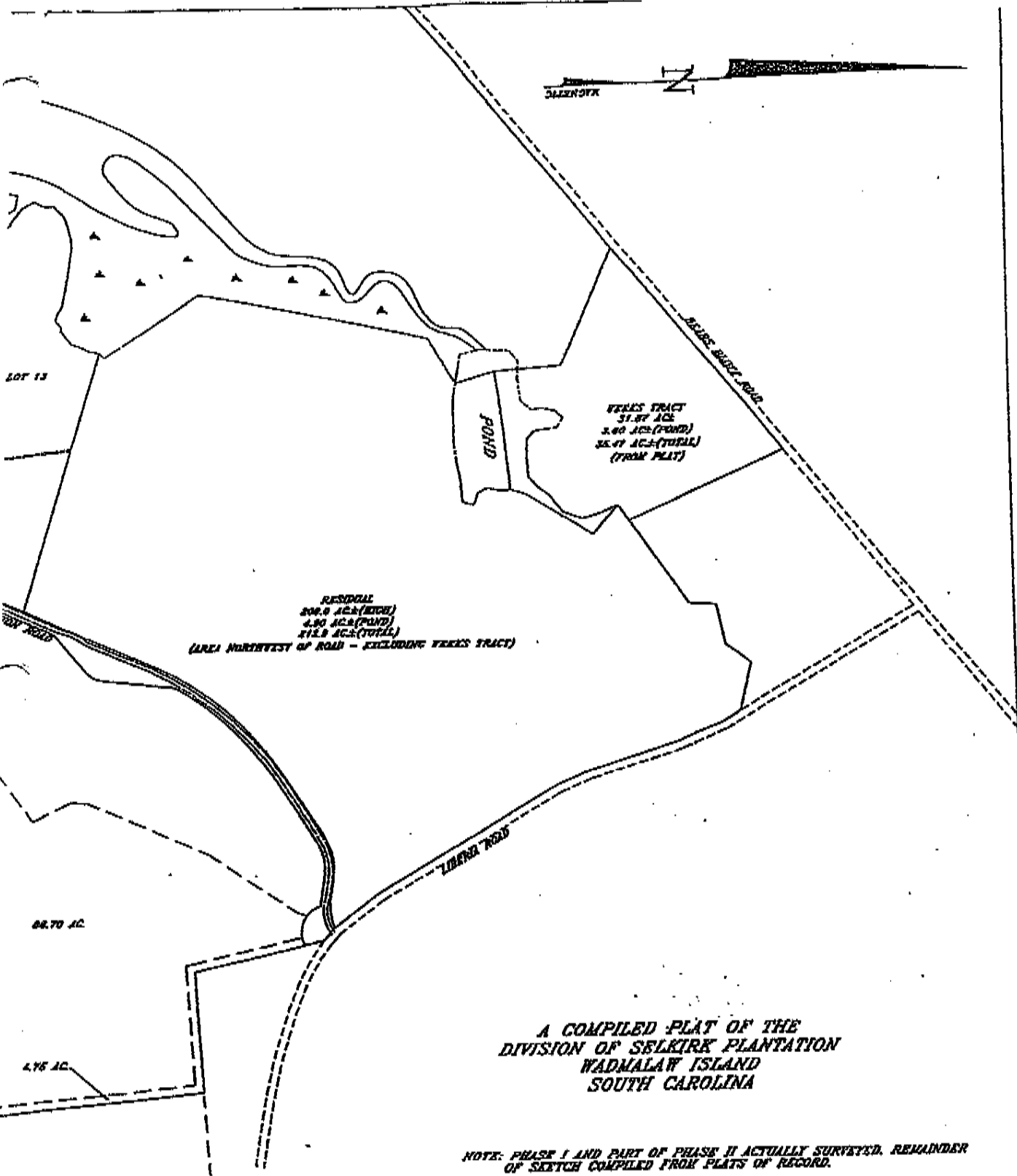
120 feet to an iron pipe; thence south 46 degrees 6 minutes east, 245 feet to an iron pipe; thence south 36 degrees, 45 minutes west, 238 feet to an iron pipe; thence south 34 degrees west, 60 feet to a point; thence south 44 degrees west, 139 feet to a point; thence south 69 degrees 10 minutes west, 642.7 feet to a point; thence north 64 degrees 30 minutes west, 195 feet to an iron pipe; thence north 7 degrees 8 minutes west, 55 feet along the center line of an old dike to a point; thence north 7 degrees 8 minutes west, 159.06 feet to an iron pipe; thence north 64 degrees 30 minutes west, 789 feet to an iron pipe on the southeast right-of-way line of Bears Bluff Road; thence north 53 degrees 40 minutes east, 1613.2 feet along the southeast right-of-way line of Bears Bluff Road to an iron pipe, which is the point of beginning.

Being a portion of the property conveyed to JoAnn A. Parker by Deed of Distribution from Daniel S. Parker to JoAnn Parker recorded in the RMC Office for Charleston County in Book Y-220, Page 527, which property was subsequently conveyed to JoAnn A. Parker Real Estate Trust Dated November 22, 1993 by Deed of JoAnn A. Parker dated January 16, 1996 and recorded in the RMC Office for Charleston County in Book N-265, Page 556 on February 21, 1995, and the same property conveyed to Selkirk Plantation, LLC by Deed of JoAnn A. Parker Real Estate Trust Dated November 22, 1993, which deed was dated May \_\_, 1997 and recorded in the RMC Office for Charleston County simultaneously herewith.

TMS No.158-00-00-009

140657.1

3/28/2017



RESIDUAL  
306.8 AC± (ROAD)  
4.80 AC± (POND)  
311.6 AC± (TOTAL)  
(AREA NORTHWEST OF ROAD - EXCLUDING VEEKS TRACT)

VEEKS TRACT  
31.87 AC±  
3.60 AC± (POND)  
35.47 AC± (TOTAL)  
(FROM PLAT)

**A COMPILED PLAT OF THE  
DIVISION OF SELKIRK PLANTATION  
WADMALAW ISLAND  
SOUTH CAROLINA**

**NOTE: PHASE I AND PART OF PHASE II ACTUALLY SURVEYED. REMAINDER  
OF SKETCH COMPILED FROM PLATS OF RECORD.**

**AREAS:  
PHASE I: 125.427 AC. (LOTS 1-13 AND ROAD R/W)  
PHASE II: 451.81 AC. (SOUTH SIDE OF ROAD)  
RESIDUAL: 311.60 AC± (NORTH SIDE OF ROAD)  
VEEKS TRACT: 35.47 AC±  
TOTAL: 826.667 AC±**

**SURVEYOR**

177  
PLESTON, S.C. 29412