

**Prepared by
and return to:**

St. Simons Land Trust, Inc.
P.O. Box 24615
St. Simons Island, GA 31522

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT ("Easement"), dated as of April 2, 2015 and effective upon recording, for good and valuable consideration received, in perpetuity and for conservation purposes, is by and between **Sea Island Acquisition, LLC**, a Delaware limited liability company qualified to do business in the State of Georgia, with an address at 100 Cloister Drive Sea Island, GA 31561, which with its successors and assigns in title to all or any portion of the Property as hereinafter defined are herein collectively referred to as "Grantor," and **St. Simons Land Trust, Inc.**, a Georgia non-profit corporation in good standing, together with any successors and assigns to such organization in accordance with the terms set forth below or by action of law, herein collectively referred to as "Grantee," with an address at P.O. Box 24615, St. Simons Island, GA 31522. As used herein, "Grantor's Representatives" shall mean Grantor's representatives, employees, agents, guests, and invitees, or any one or more of such persons. As used herein, "Grantee's Representatives" shall mean Grantee's representatives, employees, agents, guests, and invitees, or any one or more of such persons.

RECITALS

WHEREAS, Grantor is the owner in fee simple of certain real property at the southern end of Sea Island in the County of Glynn, Georgia, more particularly described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by this reference, and hereinafter referred to as the "Property"; and

WHEREAS, the Property has significant natural, habitat, scenic, open space, and forested values (the "Conservation Values") of great importance to Grantor, to Grantee, to the people of the County of Glynn, and to the State of Georgia, which Conservation Values include, as more particularly described in the Baseline Documentation (defined below), the following:

- The Property is an undeveloped portion of a barrier island, contains a dynamic beach, and provides important high quality habitat for migratory, wintering, and nesting shorebirds and seabirds and has also provided habitat for nesting sea turtles; and

- The Property includes coastal sand dunes and beaches, which are part of a vital natural

resource system, known as the sand sharing system, which acts as a buffer to protect real and personal property and natural resources from the damaging effects of floods, winds, tides, and erosion; and

-The Property's dunes are the fragile product of shoreline evolution and are easily disturbed by actions harming their vegetation or inhibiting their natural development; and

-The Property is affected continually by dynamic ecological processes and connectivity, and a unique aspect of the Property's natural history is the ongoing dynamic hydrological and geological processes of accretion, erosion, and succession; and

-The Property is hydrologically contiguous to a tidal creek and is adjacent to a salt marsh and a tidal creek wetland system protected by the State; and

-The Property is an excellent example of coastal barrier island habitat, with significant wildlife and plant habitat, including areas of high biological diversity and rare and threatened plants and wildlife, including, without limitation, loggerhead sea turtle, American oystercatcher, red knot, marbled godwit, Wilson's plover, painted bunting, peregrine falcon, eastern diamondback rattlesnake, least terns, black skimmers, and gull-billed terns. The beach on the Property has been designated as part of a "critical habitat" for wintering piping plovers by the US Fish and Wildlife Service. The Property also provides a corridor between the beach to the east and the marsh to the west; and

-The Property provides a scenic vista from adjacent public lands, particularly the Gould's Inlet beach access area on St. Simons Island. The Property contains frontage along the ocean, a tidal creek and Gould's Inlet. The Property is located in a developing area that will benefit from the protection of significant open space; and

WHEREAS, with this Easement, it is Grantor's goal and desire to protect the Property in its natural, undeveloped condition in perpetuity for conservation purposes, in accordance with the requirements and reservations set forth herein; and

WHEREAS, the Property includes a variety of plant communities and habitats; and

WHEREAS, accordingly, this Easement protects a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, and therefore this Easement meets the requirements of Section 170(h)(4)(A)(ii) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"); and

WHEREAS, protection of the Property will accomplish a number of the factors determining "significant public benefit" under Treas. Reg. Section 1.170A-14(d)(4)(iv); and

WHEREAS, accordingly, protection of the Property is pursuant to clearly delineated federal, state, and local governmental conservation policies, and therefore this Easement meets the requirements of Section 170(h)(4)(a)(iii)(II) of the Code; and

WHEREAS, notwithstanding the foregoing, Grantor does not intend to claim, and will not claim, a federal or State of Georgia income tax deduction or credit for the conveyance of this Easement; and

WHEREAS, Grantor and Grantee desire to preserve the Conservation Values; and

WHEREAS, Grantee has agreed to accept this grant of Easement on the condition and understanding that the mutual intentions of Grantor and Grantee regarding the future uses and preservation of the Property as expressed in this Easement shall be forever honored and defended; and

WHEREAS, the Conservation Values are further documented in the Baseline Documentation Report (the "Baseline Documentation"), a copy of which is on file at the offices of Grantor and Grantee, and Grantor and Grantee have separately acknowledged and hereby acknowledge said Baseline Documentation memorializes the condition of the Property as of April 1, 2015; and

WHEREAS, Grantor intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values in perpetuity and represents that the Property is free and clear of all encumbrances except for those certain rights-of-way, easements, and reservations of record as of the date above first written and set forth on Exhibit C, attached hereto and incorporated herein ("Permitted Exceptions"); and

WHEREAS, Grantor warrants and represents that Grantor has the authority to enter into this Easement and that Grantor freely and voluntarily conveys this Easement to Grantee; and

WHEREAS, Grantee has received and there remains in full force and effect a determination letter from the Internal Revenue Service, dated July 23, 2006, a copy of which has been provided to Grantor, to the effect that Grantee is a "publicly-supported" organization described in Section 509(a)(1) and Section 170(b)(1)(A)(vi) of the Code, and is not a private foundation within the meaning of Section 509(a) of the Code; and

WHEREAS, Grantee warrants and represents that Grantee is an organization described in Section 501(c)(3) of the Code, whose primary purposes include preserving the natural and scenic character of St. Simons Island, Georgia, and enhancing the quality of life of the island community for present and future generations; and

WHEREAS, Grantee warrants and represents that Grantee is a "qualified organization," as that term is defined in Section 170(h)(3) of the Code; and

WHEREAS, Grantee warrants and represents that Grantee has the commitment and resources to enforce, and will enforce, the terms of this Easement; and

WHEREAS, Grantor and Grantee recognize the natural, habitat, scenic, undeveloped, and special character of the Property, and have the common purpose of the conservation and protection in perpetuity of the Property through the use of a perpetual conservation easement on

the Property and with the transfer from Grantor to Grantee of affirmative rights for the protection of the Property, intending the grant of this Easement and those accompanying rights to qualify as a "qualified conservation contribution" under Section 170(h) of the Code.

NOW, THEREFORE, KNOW ALL PEOPLE BY THESE PRESENTS, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, which the parties acknowledge as sufficient, and pursuant to Section 170(h) of the Code and the laws of the State of Georgia, including Ga. Code Sections 44-10-1 *et seq.*, and with the intention of making a voluntary and irrevocable gift in perpetuity, Grantor hereby voluntarily grants, conveys, and warrants to Grantee a conservation easement in perpetuity and for conservation purposes over the Property of the nature and character and to the extent hereinafter set forth and declares that the Property shall be held, mortgaged, encumbered, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, easements and restrictions hereinafter set forth, which covenants, conditions, easements and restrictions shall be deemed to run with the land in perpetuity and to burden the Property in perpetuity, in accordance with the following:

1. **Purpose.** It is the purpose of this Easement to assure that the Property will be retained forever predominantly in its natural and scenic condition for conservation purposes and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values and the Property's natural resources and associated ecosystems. If one or more of the purposes of this Easement may no longer be accomplished, such failure of purpose shall not be deemed sufficient cause to terminate the entire Easement as long as any other purpose of the Easement may be accomplished.
2. **Affirmative Rights of Grantee.** Grantor hereby grants the following rights to Grantee, which rights shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee:
 - a. to preserve, protect, and enhance in perpetuity the Conservation Values, subject to Grantor's reserved rights as provided herein and further subject to all third party rights of record in the Property existing at the time of conveyance of this Easement and not subordinated to this Easement;
 - b. to prevent Grantor or third persons (whether or not claiming by, through, or under Grantor) from using or permitting any use or activity on, over, or under the Property that violates this Easement, and to require of Grantor or third persons the restoration to the Property's condition immediately prior to such use or activity of such areas or features of the Property that may be damaged by any such use or activity;
 - c. upon ten (10) days prior written notice to Grantor, and without unreasonably interfering with Grantor's use and quiet enjoyment of the Property as restricted by this Easement, to enter upon the Property at such reasonable times and in such reasonable manner as Grantor and Grantee shall reasonably agree, in order to monitor Grantor's compliance with the terms of this Easement, provided that in

any event in the absence of evidence which gives Grantee a reasonable basis to believe there is an active and continuing violation of this Easement (which evidence shall be made available to Grantor, in advance and in writing, followed by an opportunity for Grantor to reply thereto prior to Grantee's further action), such monitoring events may at Grantee's discretion occur twice in any twelve-month period but shall not occur more often than twice in any twelve-month period, and provided further that if Grantee is in receipt of evidence which gives Grantee a reasonable basis to believe there has been a violation of this Easement, Grantee may enter upon the Property for the purpose of monitoring Grantor's compliance with this Easement and investigating the suspected violation, without regard to the frequency and prior notice limitations set forth above, but conditioned upon Grantee concurrently making such evidence available to Grantor for review and comment;

- d. to seek injunctive and other equitable relief against any violation of this Easement, including without limitation relief requiring removal of offending structures, encroachments, contamination, and vegetation, and other restoration of the Property to a condition substantially similar to that which existed immediately prior to any such violation (it being agreed that Grantee will have no adequate remedy at law); and
- e. after providing Grantor with written notice and a reasonable opportunity to Cure, as set forth below, to enforce this Easement in the case of breaches by Grantor or by third persons (whether or not claiming by, through, or under Grantor) by appropriate legal proceedings.

3. Cure; Grantee's Remedies.

- a. In the event that Grantee becomes aware of a material violation of the terms of this Easement, Grantee shall give written notice to Grantor and request corrective action sufficient to abate such violation (a "Cure") and restore the Property to a condition substantially similar to that which existed immediately prior to such violation.
- b. In the event of failure by Grantor within 30 days after receipt of such notice to Cure (i) to (a) Cure and restore the Property to a condition substantially similar to that which existed immediately prior to such violation and (b) to initiate such other corrective action to such violation as appropriate in the circumstances and as may be reasonably requested by Grantee, or (ii) to begin good faith efforts to Cure where completion of such action cannot be reasonably accomplished within 30 days and diligently to pursue such Cure to completion, provided such Cure does not take longer than 90 days, then Grantee shall be entitled to: (I) bring an action at law or in equity in a court of competent jurisdiction to enforce this Easement; (II) require, or cause, actions to be taken in order to effect the restoration of the Property to a condition substantially similar to that which existed immediately prior to such violation; (III) seek to enjoin any violation by temporary or

permanent injunction; and (IV) recover reasonable damages arising from such violation and recover all reasonable costs and expenses of enforcing the terms of this Easement against Grantor in the event of a violation, including but not limited to reasonable attorney's fees.

- c. If Grantee, in its sole discretion, in the good faith exercise of its professional judgment, determines that emergency circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, Grantee may pursue its remedies under this section with concurrent oral and written notice to Grantor and without waiting for the period for Cure to expire, provided, however, that any such remedy pursued shall be a remedy solely and directly related to the damage which has occurred. Grantee shall give concurrent oral and written notice for all such actions and shall provide Grantor with written notice of all actions taken by it pursuant to this section immediately (or as soon as possible) thereafter.
 - d. Grantee's rights under this section apply equally to either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation are inadequate and that Grantee shall be entitled to injunctive relief, 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 section shall be cumulative and shall be in addition to all remedies now or hereafter existing in law or equity.
4. **Forbearance Not a Waiver.** Any forbearance by Grantee to exercise its rights under this Easement in the event of any violation of this Easement shall not be deemed or construed to be a waiver by Grantee of such violation or another violation 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 shall impair such right or remedy or be construed as a waiver. Grantor expressly waives defenses of laches and estoppel pursuant to this section.
 5. **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 Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, erosion, major tree or plant disease, acts of trespassers, or the unauthorized, negligent, or wrongful acts of third persons, or from any prudent action taken by Grantor intended to mitigate injury to the Property resulting from such causes, provided that Grantor notifies Grantee of such mitigation. Notwithstanding the foregoing, nothing herein shall preclude Grantor's and Grantee's rights to pursue any third party for damages to the Property from vandalism, trespass, or any other violation of this Easement. Grantor and Grantee agree that in the event of damage to the Property from acts beyond Grantor's control, if Grantor and Grantee agree that it is desirable and feasible that the Property be restored, Grantor and Grantee will cooperate in good faith in attempting to restore the Property.

6. **Grantee's Obligations.** To the extent that Grantee by action or inaction does not perform or fulfill any affirmative, non-discretionary obligation required of Grantee pursuant to the terms of this Easement, then Grantor shall give written notice of such obligation to Grantee and the parties shall cooperate and act in good faith to reach a resolution with respect to such obligation. Notwithstanding the foregoing, Grantor does not waive any other rights or remedies that might be available to Grantor in the event of Grantee's failure to perform or fulfill any affirmative, non-discretionary obligation required of Grantee.
7. **Environmental Monitoring by Others.** Without waiving any of its other rights hereunder, Grantee consents to environmental monitoring of the Property by other organizations designated by Grantor for that purpose.
8. **Prohibited Uses.** Grantor will neither perform nor allow others to perform the following acts or uses, which are expressly forbidden on, over, under, or in connection with the Property, except as otherwise provided herein:
 - a. mining, surface mining, excavating, extracting (by surface or subsurface methods), dredging, or removing from the Property of soil, loam, peat, gravel, sand, coal, hydrocarbons (including oil and gas), rock, or other mineral resource or natural deposit;
 - b. residential, commercial, or industrial uses of the Property;
 - c. constructing or placing of any temporary or permanent structure, mobile home, transmission or receiving tower, energy facility, signs, billboards, advertisements, or other temporary or permanent structure or facility on, below, or above the Property;
 - d. the installation of underground storage tanks or the placing, filling, storing, or dumping in, on, or under the Property of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other such substance, whether or not generated on the Property;
 - e. the application of pesticides (including, but not limited to, insecticides, fungicides, rodenticides, and herbicides) on the Property without the prior written consent of Grantee, which may be withheld in Grantee's sole but reasonable discretion in the good faith exercise of Grantee's professional judgment; provided, however, that such prohibition does not include aerial spraying by governmental agencies acting without express permission from Grantor;
 - f. any change, disturbance, alteration, or impairment of the natural, open space, or scenic features of the Property, including but not limited to hunting, discharge of firearms, and bonfires, and any activity that takes, harms, pursues, kills, traps, captures, or collects any native wildlife or any legally protected plant;

- g. the construction of roads on the Property;
 - h. any use or activity that causes or presents a risk of causing soil erosion or significant water pollution;
 - i. the construction or extension of utility systems, commercial antennas, radio towers, or the like on the Property;
 - j. the use of motorized vehicles on the Property; and
 - k. any unanticipated use or activity on or at the Property which would impair conservation values, unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement, in which case such use or activity shall be subject to the approval of Grantee, which approval shall not be unreasonably withheld.
9. **Reserved Rights.** Notwithstanding any other provision of this Easement, the following rights, uses, and activities on the Property shall be permitted by this Easement, provided they do not materially impair the Conservation Values or purpose of this Easement and shall at all times comply with the requirements of all applicable laws and regulations:
- a. the right to use and enjoy the Property and the right to engage in all acts or uses not expressly prohibited herein that are not inconsistent with the purpose of this Easement and that do not materially impair the Conservation Values;
 - b. the right to all manner of access to and use and enjoyment of the Property, including access to and from any abutting property owned by Grantor, and in furtherance thereof the right to use and enjoy the Property, subject to and consistent with the provisions of this Easement, in connection with Grantor's residential, commercial, and resort activities;
 - c. subject to the provisions herein, the right to divide the Property and the right to conduct Shoreline Engineering Activity, as further defined herein;
 - d. the right to conduct selective cutting or clearing of vegetation for habitat enhancement and protection, fire protection, unpaved trail and road maintenance, or otherwise to preserve the present condition of the Property;
 - e. after consultation with Grantee, the right to conduct environmental management activities for habitat management, maintenance, and enhancement purposes;
 - f. the right to clear and maintain trails, which all shall be sand or dirt trails, and the existing horse trail (as identified in the Baseline Documentation) to provide comparable access as exists as of the date above first written, and, after

consultation with Grantee and notice to Grantee, the right to relocate the existing horse trail;

- g. the right to post all or a portion of the Property against trespassing and hunting, the right to post signs identifying the Property, the perpetual protection of the Property, and the identity of Grantee as the holder of this Easement, and the right to post advisory/regulatory signs such as signs designating restricted wildlife areas, and educational signs such as signs identifying the conservation values of the property, directional signs, and informational signs advertising on-site permitted activities; provided, however, that best efforts will be made to limit the total number of signs, that no signs shall be larger than 12 square feet, that triangular or diamond shaped signs will be used (not rectangular ones), that the tops of any signs shall extend beyond the post or stake holding the sign, that the top of any stake or post holding the sign shall be cut at an angle, that the maximum height of any advisory/regulatory sign shall be three feet, and that the maximum height of any educational sign shall be eye level;
- h. the right to use motorized vehicles on the Property for emergency access and in connection with turtle patrols and other bona fide scientific studies;
- i. the right to lease or grant other less-than-fee interests in all or any portion of the Property for any use or activity that is permitted by this Easement, including but not limited to any commercial use permitted under the provisions of this Easement, provided that any such lessee shall be subject to this Easement in all respects;
- j. walking, running, biking, birdwatching, hiking, beachcombing, shell collecting, swimming, sunbathing, horseback riding, and any other passive outdoor commercial or non-commercial recreational activities, and education, research, and scientific activities on the Property;
- k. the collection of avian or other species of wildlife, provided that the exercise of such right to collect shall be limited solely to duly authorized state and federal wildlife agencies and scientific studies approved by such authorized state and federal wildlife agencies; and
- l. subject to Grantee's approval, which approval shall not be unreasonably withheld, Grantor may engage in an unanticipated use or activity on or at the Property so long as such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement, or is not inconsistent with the protection of the Conservation Values but is not clearly provided for herein.

10. Grantor's Representations And Warranties.

- a. Grantor covenants, represents, and warrants the following: (i) that Grantor is the sole owner and is lawfully seized of the Property in fee simple and has good right

to grant and convey this Easement, and that Grantor will defend the same against the claims of all persons arising by or through Grantor, as to the Property; (ii) that the Property is free and clear of any and all encumbrances, including but not limited to a mortgage or mortgages covering all or any part of the Property, except for the permitted encumbrances set forth on Exhibit C; and (iii) that Grantee shall have all the rights and benefits derived from and arising out of this Easement as it relates to the Property.

- b. Grantor covenants, represents, and warrants that, to the best of the knowledge of Grantor:
- i. No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed of, deposited, abandoned, or transported in, on from, or across the Property, except as naturally occurring, or in amounts not exceeding applicable law.
 - ii. There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements.
 - iii. If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, in amounts exceeding applicable law, and other than those naturally occurring ("Hazardous Materials"), Grantor shall take commercially reasonable steps to assure its containment, remediation, and cleanup, as necessary, in accordance with applicable law.
 - iv. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability to Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and any corresponding state statute.

11. Shoreline Engineering Activity.

- a. Subject to the terms herein, Grantor reserves the right to conduct any Shoreline Engineering Activity, and to construct, maintain, and repair as necessary any Shoreline Engineering Activity project, provided that (i) all required permits have been received by Grantor and (ii) any such Shoreline Engineering Activity is limited to an area not more than 160 (one hundred sixty) feet south of the northern boundary of the Property (unless required by any local, state, or federal agency having jurisdiction to be at some other location on the Property). In conducting such Shoreline Engineering Activity, Grantor reserves the right to use motorized vehicles and other mechanized equipment as necessary, so long as such motorized vehicles and other mechanized equipment shall obtain access to the area in question by way of the beachfront only. "Shoreline Engineering Activity" shall mean an activity which encompasses any artificial method of altering the natural topography or vegetation of the sand dunes, beaches, bars, submerged shoreline lands, and other components of the sand-sharing system, if all or any part of such activity is located within the jurisdiction of the Georgia Shore Protection Act. Such Shoreline Engineering Activity may include, but is not limited to, artificial dune construction, beach restoration or re-nourishment, erosion control activities, including but not limited to the construction and maintenance of groins, seawalls, and riprap protection, the construction and maintenance of pipelines and piers and similar devices, and any other construction or activity as permitted by any local, state, or federal agency having jurisdiction. Grantor shall provide notice to Grantee at least 30 days prior to the commencement of any Shoreline Engineering Activity.
- b. Grantee hereby warrants and represents that it shall not oppose, in any judicial or administrative forum, whether formally or informally, any request or application by Grantor for a permit or other authorization to construct and maintain a Shoreline Engineering Activity, provided that any such Shoreline Engineering Activity occurring on the Property is located within the area not more than 160 feet south of the northern boundary of the Property and complies with the terms of this Easement. The parties agree that, in the event of a breach of this section by Grantee, monetary damages will provide inadequate relief to Grantor and that Grantor may seek specific performance of Grantee's agreement; provided, however, that the parties agree that no legal action for specific performance or injunction shall be brought or maintained until Grantor has provided written notice to Grantee that explains with particularity the nature of the claimed breach, and (a) Grantee fails to cure the claimed breach within five (5) days after receipt of said notice, or (b) in the case of a claimed breach that cannot reasonably be remedied within a five (5) day period, Grantee fails to commence to cure the claimed breach within such five (5) day period or thereafter fails to diligently complete the activities reasonably necessary to remedy the claimed breach.

12. **Division.** Grantor reserves the right to divide and convey portions of the Property for boundary adjustment purposes. Any successor in title to any portion of the Property conveyed under the terms of this section shall be subject to this Easement in all respects.
13. **Subordination of Mortgages.** On or prior to the date this Easement is recorded in the Office of the Clerk of Glynn County, Georgia, as set forth below, Grantor shall cause any and all holders of a mortgage or other security instrument in and to the Property to subordinate in writing their respective rights and interest in the Property to this Easement; Grantor shall cause such subordination documents to be recorded in the Office of the Clerk of Glynn County, Georgia on the same day this Easement is recorded.
14. **Eligibility for Conservation Programs.** At no cost to Grantee, Grantor reserves the right to participate in conservation, preservation, or mitigation programs existing now or permitted in the future for any activity or use permitted (or restricted, as the case may be) on the Property under this Easement, including but not limited to carbon sequestration credits and greenhouse gas credits.
15. **No Extinguishment Through Merger.** No deed, transfer, or assignment of all or any portion of the fee simple interest in the Property to Grantee or any successor Grantee of this Easement shall be effective if it will result in the merger of this Easement with the fee simple interest in the Property.
16. **Access.** No right of access to any portion of the Property is conveyed by this Easement, except as expressly provided herein.
17. **Costs, Liabilities, and Taxes.** Grantor and Grantee acknowledge and agree that Grantor retains primary ownership of the Property and therefore Grantor controls day-to-day activities on, and access to, the Property, except for Grantee's limited rights set forth herein. Grantor therefore agrees that general liability for risks, damages, injuries, claims, or costs arising by virtue of Grantor's continued ownership, use, and control of the Property shall remain with Grantor as a normal and customary incident of the right of Property ownership. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of general liability insurance coverage. Grantor shall carry commercially reasonable hazard and liability insurance coverage written on an occurrence basis. Grantor shall pay before delinquency any and all taxes, assessments, fees and charges levied on the Property, including any tax or assessment on this Easement.
18. **Indemnification.**
 - a. Grantor hereby indemnifies, defends (with counsel approved by Grantee, which approval shall not be unreasonably withheld or delayed) and holds harmless Grantee and each of Grantee's officers, directors, employees, agents, invitees, and contractors and the heirs, personal representatives, successors, and assigns of each of them ("Grantee's Indemnified Parties") from and against any and all claims, costs, liabilities, penalties, damages, injuries, losses, judgments, or expenses of

any kind or nature whatsoever (including, but not limited to, court costs and reasonable attorneys' fees and expenses) (each, a "Grantor Indemnified Claim") arising from or connected with (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter relating to or occurring on or about the portion of the Property owned by Grantor, or (ii) negligent act or omission on the Property by Grantor or Grantor's Representatives, and (iii) the obligations arising from past, present or future presence of any Hazardous Materials on the Property, and any obligation associated with the generation, discharge, transport, containment, or cleanup of any such Hazardous Materials.

- b. Grantee agrees to hold harmless, indemnify, and defend Grantor and Grantor's members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them, from any and all liabilities, injuries, losses, damages, judgments, costs, expenses of every kind, and fees, including reasonable attorney's fees actually incurred, Grantor may suffer or incur as a result of or arising out of the negligent act or omission of Grantee or Grantee's Representatives or other actions by Grantee or Grantee's Representatives relating to or occurring on or about the portion of the Property owned by Grantor.

19. **Limitations on Assignment by Grantee.** The benefits of this Easement shall not be assignable by Grantee, except (i) if as a condition of any assignment, Grantee requires that the purpose of this Easement continues to be carried out; (ii) if the assignee, at the time of assignment, qualifies under Section 170(h) of the Code and Ga. Code Sections 44-10-1 *et seq.*, as an eligible donee to receive this Easement directly; (iii) if the assignee has the commitment and resources to enforce, and agrees to enforce, this Easement; and (iv) any proposed assignment shall be subject to the consent of Grantor to the assignment. Grantee agrees to provide notice to Grantor at least sixty (60) days prior to any intended assignment of this Easement. Any subsequent assignment of this Easement shall also be subject to the provisions of this section. Any attempted assignment by Grantee of the benefits of this Easement contrary to the terms hereof shall be invalid but shall not operate to extinguish this Easement.

20. **Transfers by Grantor.** Grantor agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which Grantor transfers any interest in all or a portion of the Property. Grantor further agrees to give notice to Grantee of the proposed 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 Easement or limit its enforceability in any way, nor shall such failure impair the validity of any transfer.

21. **Limitations on Amendment.** If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may by written agreement amend this Easement; provided that no amendment shall be made that will adversely affect the qualification of this Easement or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Code and Ga. Code

Sections 44-10-1 *et seq.* Any such amendment shall be consistent with the purpose of this Easement, shall not affect its perpetual duration, and shall not permit any impairment of the Conservation Values. Any such amendment shall be suitable for recording and shall be recorded in the Office of the Clerk of Glynn County, Georgia, after all required signatures have been affixed thereto. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment. No alteration or variation of this Easement shall be valid or binding unless contained in an amendment that complies with the provisions of this section.

22. Termination Or Extinguishment.

- a. If circumstances arise in the future that render the Conservation Values of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof if less than all the Property is sold, exchanged, or involuntary converted.
- b. Grantor hereby agrees that at the time of the gift of this Easement, this Easement gives rise to a real property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that this Easement at that time, bears to the value of the Property as a whole at that time, and the proportionate value has not been determined. Although the actual proportionate value of the Easement interest has not been determined or agreed upon by Grantor and Grantee, Grantor and Grantee agree that if this Easement is extinguished, terminated, or taken by eminent domain as described below, Grantee on any sale, exchange or involuntary conversion of the Property shall be entitled to a portion of the proceeds equal to the proportionate value that this Easement at the time of termination, extinguishment or condemnation bears to the then value of the Property as a whole. Grantor shall be entitled to the balance of the proceeds.
- c. Grantee shall use any proceeds received under the circumstances described in this section as follows: if proceeds are received as a result of a partial termination or extinguishment of this Easement, and the remaining Property retains significant Conservation Values, the proceeds due Grantee shall be contributed to Grantee's stewardship fund for the Property; if proceeds are received as a result of a sale, exchange, or involuntary conversion subsequent to a complete termination or extinguishment of this Easement, or if the remaining Property following a sale, exchange, or involuntary conversion subsequent to a partial termination or extinguishment does not retain significant Conservation Values, the proceeds due Grantee shall be used by Grantee to acquire conservation property or fund conservation projects in the Georgia coastal region.

23. General Provisions.

- a. Reasonableness Standard. Grantor and Grantee shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner, and shall cooperate with one another and shall take all other reasonable action suitable to that end.
- b. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Georgia.
- c. Severability; Liberal Construction. 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. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement and consistent with the perpetual protection of the Conservation Values shall be favored over any interpretation that would be inconsistent therewith. Neither this Easement nor any uncertainty or ambiguity herein shall be presumptively construed against either party, whether under any rule of construction or otherwise.
- d. Compliance Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document that may be requested by Grantor, including an estoppel certificate or compliance certificate, to certify to the best of Grantee's knowledge Grantor's compliance with any obligation of Grantor contained in this Easement or otherwise to evidence the status of this Easement.
- e. Successors; Benefits and Burdens. The covenants, terms, conditions, easements, benefits, and burdens of this Easement shall be binding upon and inure to the parties hereto and their respective successors, personal representatives, heirs, and assigns and shall continue as a restriction running in perpetuity with the Property. An owner of the Property shall only be responsible for those violations first occurring on the Property during such owner's ownership, and while still an owner of the Property (although notwithstanding the foregoing, a subsequent owner may also be held responsible for those violations first occurring during another's prior ownership of the Property unless an estoppel or compliance certificate was obtained by such subsequent owner prior to or at the time of the transfer of the Property's ownership to such subsequent owner). In the event of a breach of the terms hereof by the owner or owners of any divided portion of the Property, no owner or owners of any other portion of the Property shall be liable for such breach.
- f. Condemnation. Notwithstanding the provisions of paragraph 22, if all or any part of the Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in

lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full fair market value (without regard to any diminution in value attributable to the Easement) of the interests in the Property subject to the taking and all incidental or direct damages resulting from the taking. Grantor and Grantee shall divide any such recovery in accordance with the law of the State of Georgia.

- g. Notices. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other(s) under the provisions of this Easement shall be in writing and either served personally, overnight delivery by FedEx or other nationally-recognized delivery company, or sent by certified first class mail, postage prepaid, addressed as follows:

To Grantor: Sea Island Acquisition, LLC
 Attn: Scott K. Steilen,
 President
 Sea Island Acquisition, LLC
 P.O. Box 30351
 Sea Island, Georgia 31561
 scottsteilen@seaisland.com

With a copy to: James B. Gilbert, Jr., Esq.
 General Counsel
 Sea Island Acquisition, LLC
 P.O. Box 30351
 Sea Island, Georgia 31561
 jimgilbert@seaisland.com

With a copy to: Patricia T. Barmeyer, Esq.
 King & Spalding LLP
 1180 Peachtree Street, NE
 Atlanta, Georgia 30309

And a copy to: Stephen J. Small, Esq.
 Law Office of Stephen J. Small, Esq., P.C.
 One Gateway Center, Suite 801
 Newton, Massachusetts 02458

To Grantee: St. Simons Land Trust, Inc.
 1624 Frederica Road, Suite 6
 St. Simons Island, Georgia 31522

or to such other address as any of the above parties from time to time shall designate by written notice to the others. Notice shall be deemed given and received as of the date of its manual delivery or, if there was no manual delivery,

one business day after overnight delivery or three (3) days after the date of its mailing.

- h. 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 Clerk of Glynn County, Georgia, after all required signatures have been affixed hereto. This Easement shall be timely recorded at Grantor's sole cost.
- i. Changed Conditions. In making this grant, Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may in the future be put entirely to such prohibited uses. In addition, the unprofitability of conducting or implementing any or all of the uses permitted under the terms of this Easement shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment. It is the intent of Grantor and Grantee that any such economic changes shall not be deemed to be changed conditions or a change of circumstances justifying the judicial termination, extinguishment or amendment of this Easement.
- j. Re-recording. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement in the official public records of Glynn County, Georgia, and Grantor agrees to execute, acknowledge, and deliver such further instruments as may be reasonably required to assure the perpetual enforceability of this Easement.
- k. Captions. The captions herein have been inserted solely for convenience of reference and shall have no effect upon the construction or interpretation of this Easement.
- l. Venue. The courts of the State of Georgia shall have jurisdiction over any suit, action, mediation or other proceeding of any nature whatsoever instituted in connection with any controversy arising out of this Easement or to interpret or enforce any rights under this Easement, and venue shall be in Glynn County, Georgia.
- m. Counterparts. This Easement may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.
- n. Recitals and Exhibits. The Recitals and Exhibits are incorporated herein as if set forth in full below.

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

[Signature Page to Follow]

WITNESS WHEREOF Grantor and Grantee have set their hands under seal as of the date first set forth above.

GRANTOR:

SEA ISLAND ACQUISITION, LLC,
a Delaware limited liability company

By: [Signature]
Name: Scott K. Steilen
Title: Authorized Signatory

Signed, sealed and delivered in our presence in Glynn County, Georgia

[Signature]
Unofficial Witness

[Signature]
Unofficial Witness

STATE OF GEORGIA
COUNTY OF GLYNN

Before me, the undersigned authority, on this day personally appeared SCOTT K. STEILEN, [check one] known to me or proved to me through _____ (description of identity card) to be the person whose name is subscribed to the foregoing instrument, President of SEA ISLAND ACQUISITION, LLC, a Delaware limited liability company and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said limited liability company.

Given under my hand and seal of office this 2nd day of April, 2015.



Kathy Hutcheson
Notary Public, State of Georgia
Printed name: Kathy Hutcheson
Commission expires: 5-5-2018

WITNESS WHEREOF Grantor and Grantee have set their hands under seal as of the date first set forth above.

GRANTOR:

SEA ISLAND ACQUISITION, LLC,
a Delaware limited liability company

By: [Signature]
Name: Scott K. Steilen
Title: Authorized Signatory

Signed, sealed and delivered in our presence in Glynn County, Georgia

[Signature]
Unofficial Witness

[Signature]
Unofficial Witness

STATE OF GEORGIA
COUNTY OF GLYNN

Before me, the undersigned authority, on this day personally appeared SCOTT K. STEILEN, [check one] known to me or proved to me through _____ (description of identity card) to be the person whose name is subscribed to the foregoing instrument, President of SEA ISLAND ACQUISITION, LLC, a Delaware limited liability company and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said limited liability company.

Given under my hand and seal of office this 2nd day of April, 2015.



Kathy Hutcheson
Notary Public, State of Georgia
Printed name: Kathy Hutcheson
Commission expires: 5-5-2018

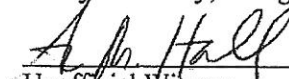
GRANTEE:


ST. SIMONS LAND TRUST, INC.,
a Georgia non-profit corporation

Date: April 2, 2015

By: 
Ben T. Slade, III, Executive Director

Signed, sealed and delivered in our presence
in Glynn County, Georgia



Unofficial Witness

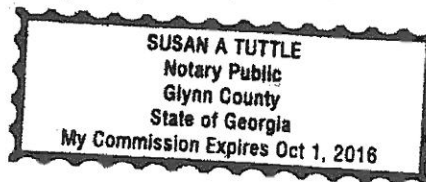

Unofficial Witness

STATE OF GEORGIA
COUNTY OF GLYNN

Before me, the undersigned authority, on this day personally appeared BEN T. SLADE, III, [check one] known to me or ___ proved to me through _____ (description of identity card) to be the person whose name is subscribed to the foregoing instrument, Executive Director of ST. SIMONS LAND TRUST, INC., a Georgia non-profit corporation and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said corporation.


Given under my hand and seal of office this 2nd day of April, 2015.


Notary Public, State of
Printed name: SUSAN A. Tuttle
Commission expires: 10-1-2016




GRANTEE:

ST. SIMONS LAND TRUST, INC.,
a Georgia non-profit corporation

By: 
Ben T. Slade, III, Executive Director

Signed, sealed and delivered in our
presence in Glynn County, Georgia


Unofficial Witness


Unofficial Witness

STATE OF GEORGIA
COUNTY OF GLYNN

Before me, the undersigned authority, on this day personally appeared BEN T. SLADE, III, [check one] known to me or ___ proved to me through _____ (description of identity card) to be the person whose name is subscribed to the foregoing instrument, Executive Director of ST. SIMONS LAND TRUST, INC., a Georgia non-profit corporation and acknowledged to me that said person executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of said corporation.

Given under my hand and seal of office this 2nd day of April, 2015.

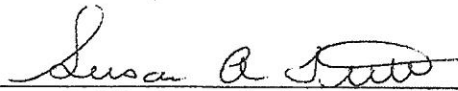

Notary Public, State of Georgia
Printed name: Susan A. Tuttle
Commission expires: 10-1-16



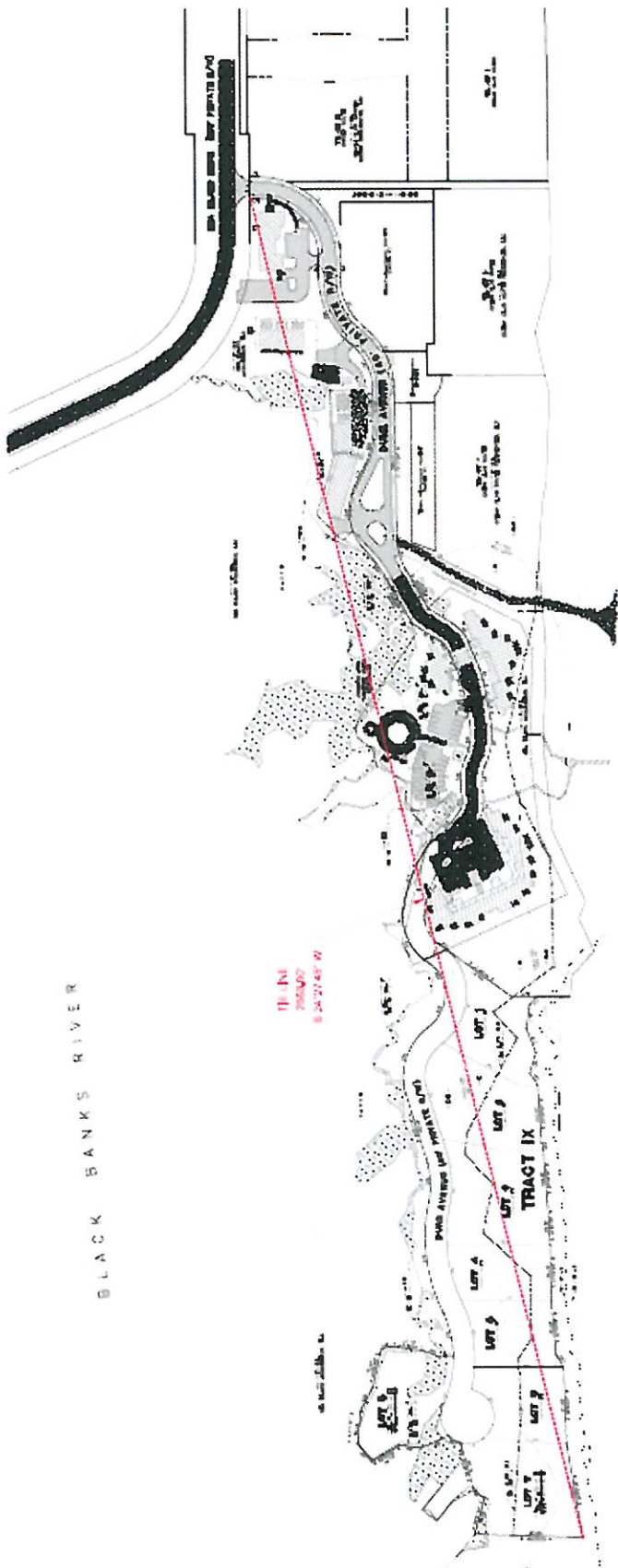
EXHIBIT A

Legal Description of the Property

That portion of land on Sea Island which is hereby described and defined as bounded westerly by the high water line of the Black Banks River, southerly by the high water line of Gould's Inlet and easterly by the high water line of the Atlantic Ocean, which high water line boundaries will move with accretion and erosion, and northerly by the following defined line: to locate said northern boundary line, commence at the point of intersection of the southeasterly line of Sea Island Drive, a 100-foot private right of way, with the southwesterly line of Dune Avenue, a 40-foot private right of way (which intersection is shown on a plat by Robert N. Shupe, Georgia Registered Land Surveyor No. 2224, dated October 15, 2007, recorded in the office of the Clerk of Superior Court of Glynn County at Plat Book 30, Map 278), and from said intersection running South 24 degrees 27 minutes 45 seconds West for a distance of 2,563 feet to the beginning point of said northern boundary line, and from said beginning point running thence North 50 degrees 05 minutes 06 seconds West for a distance of 600 feet, more or less, to the high water line of the Black Banks River; thence returning to the beginning point and running South 50 degrees 05 minutes 06 seconds East for a distance of 25 feet, more or less, to the high water line of the Atlantic Ocean, the entirety of said northern boundary line, being 625 feet, more or less, in length, running on the above described bearings, from the high water line of the Atlantic Ocean to the high water line of the Black Banks River, and with the understanding that the intent hereof is that the Property will also extend to the low water lines of said ocean, inlet, and river, to the extent of Sea Island Acquisition, LLC's right, title and interest in and to the land lying between the high water line and the low water line. The beginning point and tie-line of the Property are depicted on the attached Exhibit "A-1".

EXHIBIT A-1

Attached



BLACK BANKS RIVER

11.14
200.00
8.24 (2.45%)

ATLANTIC OCEAN

EXHIBIT B

Photograph of Property



PROPOSED CONSERVATION EASEMENT
Scale: 1" = 500' Date: 3.16.15

EXHIBIT C

Permitted Exceptions

1. Any adverse claim based upon the assertion that some portion of the Property is tidal land or submerged land, or has been created by artificial means or has accreted to such portion so created.
2. Encroachments, overlaps, boundary line disputes, easements, cemeteries, or burial plots, or other matters which would be disclosed by an accurate survey or inspection of the Property.
3. Title to that portion of the Property lying below the mean high water mark of the Black Banks River or the Atlantic Ocean.
4. Rights, if any, of the public to use as a public beach or recreation area any part of the Property lying between the bodies of water abutting the Property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary line separating the publicly used area from the upland private area.
5. The terms and conditions of the Georgia Coastal Marshlands Protection Act.
6. The terms and conditions of the Georgia Shore Protection Act.
7. Development and use restrictions and conditions imposed by federal, state and local laws with respect to those portions of the Property constituting wetlands, if any.