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## CONSERVATION EASEMENT

**THIS CONSERVATION EASEMENT** is made effective this 7 day of July, 2008, by and between Douglas S. Dickinson 2007 Revocable Trust and Barbara G. Dickinson 2007 Revocable Trust as tenants in Common ("Owner"), with an address of 2020 Lake Heather Drive, Birmingham, Al. 35242, and Alabama Farmer's Trust, LLC ("Trust"), with an address of 9 Office Park Circle Suite 102, Birmingham, Al. 35223.

### RECITALS

A. Owner is the owner in fee simple of certain real property situated in Shelby County, Alabama, consisting of approximately 6.4 acres (the "Property"), as more specifically described on **Exhibit A** attached hereto.

B. Owner intends that approximately 6.4 acres within the boundaries of the Property which is designated as "Common Area" on that certain Plat (the "Plat") recorded in the Office of the Judge of Probate of Shelby County, Alabama be conserved, maintained and preserved as conservation area (the "Conservation Area").

C. Trust is an affiliate of Southeast Regional Land Conservancy, Inc., a tax exempt public charity under Sections 501(c)(3) and 509(a)(2) of the Internal Revenue code, is authorized by the laws of the State of Alabama to accept, hold, and administer conservation easements, possesses the authority to accept and is willing to accept this Conservation Easement under the terms and conditions hereinafter described, and is a "qualified organization" and an "eligible donee" within the meaning of Section 170(h)(3) of the Internal Revenue Code and regulations promulgated thereunder.

D. Owner recognizes the natural, scenic, aesthetic, educational, and special character of the Conservation Area, and has the purpose of the conservation and protection in perpetuity of the Conservation Area as "a relatively natural habitat of fish, wildlife or plants or similar ecosystem" as that phrase is used in Public Law 96-541, 26 USC 170(h)(4)(A)(ii), as amended and in regulations promulgated thereunder, by placing voluntary restrictions upon the use of the Conservation Area and by providing for the transfer from Owner to Trust of affirmative rights for the protection of the Conservation Area.

E. The Conservation Area possesses natural, scenic, open space, recreational, historic, and educational values (collectively, "Conservation Values") of great importance to Owner, Trust, and the general public.

F. The ecological and scenic significance of the Conservation Area and the Conservation Values have been established in the reports, plans, accompanying photographs, documentation, and exhibits, including the baseline documentation prepared by Trust (collectively called the "Baseline Documentation").

G. Owner intends that the Conservation Values of the Conservation Area be maintained and preserved, and Owner further intends, as owner of the Conservation Area, to



convey to Trust the right to preserve and protect the Conservation Values of the Conservation Area in perpetuity.

H. Owner and Trust intend this document to be a "conservation easement" as defined under Sections 35-18-1 through 35-18-6 of the Alabama Code of 1975.

**NOW, THEREFORE,** for and in consideration of the mutual covenants, terms, conditions, restrictions, and promises contained in this Conservation Easement, and intending to be legally bound hereby, Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Trust, its successors and assigns, the easements, covenants, prohibitions and restrictions set forth in this Conservation Easement, in perpetuity, to protect the Conservation Values and to benefit the people of Alabama. Trust hereby accepts the grant of such easements and agrees to hold such easements exclusively for the protection of the Conservation Values and to enforce the terms of the restrictive covenants set forth in this Conservation Easement.

### **ARTICLE I: GRANT OF EASEMENT**

Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Trust, its successors and assigns, a perpetual easement in gross over the Conservation Area for the purpose of preserving and protecting the Conservation Values and enforcing the restrictive covenants set forth below, in order to maintain permanently the open space values of the property and the dominant woodland, scenic, open and natural character of the Conservation Area, including land and water resources, rare plants, animals, and plant communities, and to prevent any use of the Conservation Area that will significantly impair or interfere with the Conservation Values or interest of the Conservation Area.

### **ARTICLE II: RETAINED RIGHTS AND PROHIBITED AND RESTRICTED ACTIVITIES**

Any activity on or use of the Conservation Area inconsistent with the purposes of this Conservation Easement is prohibited. The Conservation Area shall be maintained in its natural, scenic, and open condition and be restricted from any development that would significantly impair or interfere with the Conservation Values of the Conservation Area.

All rights reserved by Owner are considered to be consistent with the conservation purposes of this Conservation Easement and, except as specifically stated otherwise herein, require no prior notification to or approval by Trust. Notwithstanding the foregoing, Owner and Trust have no right to agree to any activity that would result in the termination of this Conservation Easement.

In addition to the foregoing, the following specific activities are prohibited, restricted, or reserved as the case may be.

A. Disturbance of Natural Features. Any change, disturbance, alteration or impairment of the natural, scenic and aesthetic features of the Conservation Area is prohibited, except in furtherance of the conservation purposes of this Conservation Easement as specifically set forth herein, or as otherwise permitted herein.

B. Industrial and Agricultural Use; and Residential Use. Industrial activities are prohibited on the Conservation Area. Agricultural activities related to personal use, ecological



B. Industrial and Agricultural Use; and Residential Use. Industrial activities are prohibited on the Conservation Area. Agricultural activities related to personal use, ecological restoration, habitat enhancement, pasture improvement, the harvesting of hay, the growing of traditional Appalachian crops, and the limited grazing of livestock are permitted. The Conservation Area shall not be used for a residence.

C. New Construction. Subject to the Owner's reserved rights as provided herein, no building, facility, or structure of any kind shall be built, erected, installed, placed, affixed or assembled within or upon the Conservation Area.

Owner reserves the right to construct and maintain a pond, wooden platforms, decks, trails and walkways for interpretive trails for nature education, covered picnic pavilions (not exceeding an aggregate of 4,000 square feet of covered area for all pavilions), and utilities to serve the aforesaid facilities.

Owner may construct and maintain power lines, water wells, underground water distribution lines, underground septic and sewage systems and lines, and similar infrastructure that may cross or be within the Conservation Area and supply power, water, and other utilities on the Property.

D. Additional Trails. Owner may construct and maintain additional trails on the Conservation Area for nature education and outdoor recreation purposes.

E. Wildlife; Plants. There shall be no introduction of plant or animal species within the Conservation Area except those native to the area in which the Conservation Area is located. Hunting and fishing on the Conservation Area shall be permitted, at the discretion of Owner, provided that all such activity is conducted in accordance with local, state and federal regulations and provided that there shall be no impairment of the Conservation Values.

F. Signage. Display of billboards, signs or advertisements is prohibited on or over the Conservation Area, except the posting of no trespassing signs, primitive directional signs, and interpretive trail signs identifying the Conservation Values of the Conservation Area and/or identifying the Owner as owner of the Conservation Area.

G. Topography. Except as otherwise provided herein, there shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, minerals or other materials, nor any dumping or changing of the topography of the land in the Conservation Area in any manner, except as reasonably necessary to maintain the improvements allowed under this Conservation Easement, and for the purpose of combating erosion or flooding.

H. Dumping. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, or machinery, or other materials on the Conservation Area is prohibited, except where soil, ashes, or other materials are used for gardening, landscaping, or to level parts of the terrain for other uses permitted hereunder.

I. Trees; Vegetation. There shall be no timber harvesting on the Conservation Area except as permitted herein. Owner reserves the right to cut timber or vegetation, or remove or destroy trees or vegetation within the Conservation Area under the following conditions and for the following purposes. (i) to clear and restore vegetative cover that has been damaged or disturbed by forces of nature or otherwise; (ii) to selectively prune for landscape enhancement or the promotion of general horticultural health; (iii) to selectively thin or harvest trees, but only if done in accordance with good forest management practices, the purpose of which is to preserve



existing forested areas; (iv) to thin and remove invasive plants and early successional species using good meadow or forest management practices; (v) to remove dead wood, dead or dying trees, and hazardous trees; (vii) to remove trees to the minimum extent necessary to install or construct the items permitted to be constructed under this Conservation Easement; and (viii) to remove trees in order to provide and maintain a reasonable mountain view corridor for the Lots located outside of the Conservation Area.

J. Roads. This Conservation Easement shall be subject to all existing roads and right of ways as of the date hereof, and as depicted on the Plat. There shall be no construction of new roads or any other new right of ways on the Conservation Area. Owner reserves the right to maintain in passable condition, re-grade, relocate, improve, pave, or widen the roads, trails or walkways existing within the Conservation Area at the date of this Conservation Easement. Included within this right of maintenance, without limitation, are the right to: (i) prune dead or hazardous vegetation affecting any such road, trail or walkway; (ii) install or apply materials necessary to correct or impede erosion; (iii) grade earth to maintain a passable condition or to control or impede erosion; (iv) replace existing culverts, water control structures and bridges; and (v) maintain roadside ditches.

K. Water and Drainage Patterns. There shall be no removal of ground or surface water from the Conservation Area; provided, however, Owner reserves the right to use water from the streams and springs on the Conservation Area for use by any residences located within the Property. Diking, draining, filling or removal of wetlands and pollution or discharge into waters, spring, seeps or wetlands is prohibited on the Conservation Area.

L. Subdivision. Subdivision, partitioning or dividing the Conservation Area is prohibited.

M. Quiet Enjoyment. Owner reserves to itself, its agents, representatives, successors and assigns, all rights accruing from its ownership of the Conservation Area, including the right to engage in or permit or invite others to engage in all uses of the Conservation Area that are not expressly prohibited or restricted herein and are not inconsistent with purposes of this Conservation Easement. Without limiting the generality of the foregoing, Owner expressly reserves the right of access to the Conservation Area and the right of quiet enjoyment of the Conservation Area.

N. Substitution. Owner may substitute an area of land owned by Owner which is contiguous to the Conservation Area for an equal or lesser area of land comprising a portion of the Conservation Area, provided that:

(1) In the opinion of Trust: (a) the substitute property is of the same or better ecological stability as that found in the portion of the Conservation Area to be substituted; (b) the substitution shall have no adverse affect on the conservation purposes of the Conservation Easement or on any of the significant environmental features of the Conservation Area described in the Baseline Documentation; (c) the portion of the Conservation Area to be substituted is selected, constructed and managed so as to have no adverse impact on the Conservation Area as a whole; (d) the fair market value of Trust's conservation easement interest in the substituted property, when subject to this Conservation Easement, is at least equal to or greater than the fair market value of the Conservation Easement portion of the Conservation Area to be substituted; and (e) Owner has submitted to Trust sufficient



documentation describing the proposed substitution and how such substitution meets the criteria set forth in subsections (a)-(d) above of this Article II. Section N (1).

(2) No such substitution shall be final or binding upon Trust until made a subject of an amendment to this Conservation Easement acceptable to and executed by Owner and Trust and recorded in the Office of the Judge of Probate of Shelby County, Alabama. The amendment shall include, among other things, a revised conservation easement plan or portion thereof showing the portions of the Conservation Area that are to be removed from the coverage of this Conservation Easement and the equal or greater area of contiguous land of the Owner to be made part of the Conservation Area, and thus, subject to the Conservation Easement.

(3) Any and all reasonable costs and expenses incurred by Trust relating to such substitution, including, without limitation, legal and consultant fees associated with Trust's review of the proposed substitution, shall be paid by Owner.

O. Notification of Exercise of Certain Reserved Rights.

(1) Owner must notify Trust in writing at least sixty (60) days before Owner begins, or allows, any exercise of the following Reserved Rights (the "Prior Notice Reserved Rights") on the Conservation Area: (i) the building of any new construction on the Conservation Area with a cost in excess of Ten Thousand and no/100 (\$10,000.00) Dollars pursuant to Article II, Section C; (ii) the placement of any underground utility or power lines within the Conservation Area pursuant to Article II, Section C; (iii) the removal of any trees in order to provide or maintain a reasonable mountain view corridor for any Lots pursuant to Article II, Section I(viii); (iv) the relocation of any roads pursuant to Article II, Section J; (v) the use of any ground or surface water from the area for use by any residences located within the Property pursuant to Article II, Section K; (vi) the substitution of property as provided in Article II, Section N; and (vii) the exercise of any Reserved Rights where the foreseeable result of such exercise would be the impairment of the Conservation Values or the violation of the conservation purposes of this Conservation Easement.

(2) Trust must be satisfied, as evidenced by its prior written approval of the Owner's proposed exercise of a Prior Notice Reserved Right, that any use or activity done in the exercise of the Prior Notice Reserved Right will have no material adverse effect on the Conservation Values or on the significant environmental features of the Conservation Area described in the Baseline Documentation.

(3) Trust's prior written approval of the exercise of Prior Notice Reserved Rights described in this Article II, Section O shall be obtained, conditionally obtained or declined according to the procedure provided in this Section. Upon request of Trust, Owner shall provide Trust with plans depicting in such detail, as Trust reasonably requests, the construction or other use or activity, and location thereof, which Owner intends to undertake. Trust may request additional information or details not provided by Owner regarding Owner's proposed exercise of Prior Notice Reserved Rights as Trust reasonably believes necessary to determine compliance with this Article. Trust shall have sixty (60) days from receipt of the notice or, if later, any additional information regarding the proposed use or activity requested by Trust, in which to make one of the following determinations:

(a) Approve the Owner's proposed exercise of a Prior Notice Reserved Right in accordance with the materials submitted by the Owner. Approval on such terms shall constitute a covenant by Owner to exercise the Prior Notice Reserved Right solely in



accordance with the notice and other information submitted to Trust, which covenant shall be enforceable by Trust as fully as if set forth in this Conservation Easement;

(b) Approve the Owner's proposed exercise of a Prior Notice Reserved Right in accordance with the materials submitted by the Owner but subject, however, to such qualifications and conditions as Trust may impose in its notice of approval. Approval on such terms shall constitute a covenant by Owner to exercise the Prior Notice Reserved Right, if at all, only in accordance with the notice and other information submitted to Trust, as modified or supplemented by the qualifications and conditions that Trust imposed, which covenant shall be enforceable by Trust as fully as if set forth in this Conservation Easement; or

(c) Decline to grant approval of Owner's proposed exercise of a Prior Notice Reserved Right on the basis of the notice and other materials submitted, in which case Trust shall set forth in writing the grounds for such decline in detail and will cooperate in good faith with Owner in developing acceptable modifications or alternatives.

(4) Trust may condition consideration of a proposal for exercise of Prior Notice Reserved Rights upon the deposit of a sum of money with Trust to secure payment of Trust's reasonable costs of review. The time period for Trust's consideration of the Owner's request shall not run until such deposit is made. Owner shall be responsible, as a condition of the right to exercise the Prior Notice Reserved Rights, for payment of Trust's reasonable costs and expenses, including legal and consultant fees, associated with review of the Owner's request for approval.

### **ARTICLE III: ENFORCEMENT AND REMEDIES**

A. Upon any breach of the terms of this Conservation Easement by Owner, which continues thirty (30) days after written notice provided by Trust to Owner, Trust may enforce the conservation restrictions and prohibitions by appropriate legal proceedings, including but not limited to the exercise of the right to require that the Conservation Area be restored promptly to the condition required by this Conservation Easement. The foregoing shall not limit any of the rights or remedies available to Trust as specifically set forth in any law or in this Conservation Easement.

B. No failure on the part of Trust to enforce any covenant or provision hereof shall discharge or invalidate such covenant or any other covenant, condition, or provision hereof or affect the right of Trust to enforce the same in the event of subsequent breach or default.

C. Nothing contained in this Conservation Easement shall be construed to entitle Trust to bring any action against Owner for any injury or change in the Conservation Area resulting from causes beyond the Owner's control, including, without limitation, fire, flood, storm, and earth movement, third parties, or from any prudent action taken in good faith by the Owner under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Conservation Area resulting from such causes.

D. This Conservation Easement may only be enforced by the parties hereto, and their respective successors and assigns, and no third party beneficiary rights, including but not limited to third party rights of enforcement, are created hereby. Trust's remedies described in this Article shall be cumulative and concurrent and shall be in addition to all remedies now or hereafter available or existing at law or in equity.



E. Without limitation of any other rights of Trust in this Conservation Easement, Trust's right of enforcement of this Conservation Easement shall include the right to seek specific performance by Owner of the restoration of the Conservation Area to its original condition as established in the Baseline Documentation or to its condition prior to any activity that violates this Conservation Area or as otherwise may be necessary to remedy any violation of any easement, covenant, prohibition or restriction in this Conservation Easement, as Trust may elect.

F. In the event that Trust acts, after notice to Owner, to enforce this Conservation Easement or any obligation hereunder, all reasonable expenses incurred by Trust shall be charged to and paid by the Owner, including reasonable attorneys' fees regardless of whether an action or proceeding is commenced. All such expenses, together with costs of collection (including reasonable attorneys' fees) if the Owner is determined by a court to have violated this Conservation Easement, shall be recoverable by Trust and be liens upon the Conservation Area, and collection thereof may be enforced by foreclosure and sale of the Conservation Area, notwithstanding anything to the contrary, this Conservation Easement shall not merge with any interest in the Conservation Area upon such sale and title shall be transferred subject hereto in accordance with the laws of the State of North Carolina.

G. Should the Owner or anyone acting by, through, under or on behalf of Owner, commence litigation against Trust to enforce any rights hereunder or to dispute any actions or inaction of Trust, to enforce any alleged duty or obligation of Trust hereunder or to seek damages or specific performance against Trust then unless Trust is finally determined by a court of competent jurisdiction, beyond right of appeal, to have acted in an arbitrary or capricious manner and contrary to the terms of this Conservation Easement, then Owner shall reimburse Trust on demand for all costs and expenses, including attorneys fees, reasonably incurred by Trust in its defense in such litigation.

#### **ARTICLE IV: PUBLIC ACCESS**

Owner agrees to allow visual access from points outside the Conservation Area to the general public. Owner may, at Owner's sole discretion and from time to time, grant physical access to groups, organizations, and individuals studying the Conservation Values of the Conservation Area or enjoying its recreational values. Nothing herein shall require Owner to allow physical access to the general public.

#### **ARTICLE V: COVENANTS OF OWNER**

A. Baseline Documentation. Owner has received and fully reviewed the Baseline Documentation in its entirety. Owner acknowledges that the Baseline Documentation is an accurate representation of the condition of the Conservation Area and accurately establishes the uses, structures, Conservation Values and condition of the Conservation Area as of the date hereof.

B. Title. Owner covenants and represents that Owner is the sole owner and is seized of the Conservation Area in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Conservation Area is free and clear of any and all encumbrances; and that Trust shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid Conservation Easement.



## ARTICLE VI: MISCELLANEOUS

A. Subsequent Transfers. Nothing in this Conservation Easement shall limit the right of Owner, its successors or assigns to grant or convey the Conservation Area, provided that any such grant or conveyance shall be under and subject to this Conservation Easement. Owner shall notify Trust in writing of any sale, transfer, lease or other disposition of the Conservation Area or any part thereof, whether by operation of law or otherwise, at least 30 days after such disposition, such notice shall include a copy of the deed, lease, or other declaration of transfer, the date of transfer, and the name or names and addresses for notices of the transferee. Owner and its successors, representatives, administrators, and assigns, further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent lease, deed or other legal instrument by which any interest in the Conservation Area is conveyed.

B. Conservation Purpose.

(1) Owner, for itself, its agents, successors, representatives, and assigns, agree that this Conservation Easement shall be held exclusively for conservation purposes, as defined in Section 170(h)(4) (A) of the Internal Revenue Code.

(2) This Conservation Easement gives rise to a real property right and interest immediately vested in Trust. For purposes of this Conservation Easement, the fair market value of Trust's right and interest shall be equal to the difference between (a) the fair market value of the Conservation Area as if not burdened by this Conservation Easement and (b) the fair market value of the Conservation Area burdened by this Conservation Easement. If a change in conditions which makes impossible or impractical any continued protection of the Conservation Area for conservation purposes the restrictions contained herein may be extinguished by judicial proceeding. Upon such proceeding, Trust, upon a subsequent sale, exchange or involuntary conversion of the Conservation Area, shall be entitled to a portion of the proceeds equal to the fair market value of the Conservation Easement as provided above. The Trust shall use its share of the proceeds in a manner consistent with the conservation purposes set forth in the Recitals herein.

(3) Whenever all or part of the Conservation Area is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Owner and Trust shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, which proceeds shall be divided in accordance with the proportionate value of Trust's and Owner's interests as specified above; all expenses including attorneys fees incurred by Owner and Trust in this action shall be paid out of the recovered proceeds to the extent not paid by the condemning authority.

(4) Owner and Trust agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Conservation Area.

(5) The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable to an assignee designated by Trust, provided, however that Trust hereby covenants and agrees, that in the event it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified organization



and an eligible donee as those terms are defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, which is organized or operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, and Trust further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes which the contribution was originally intended to advance, set forth in Article I herein.

C. Access. Trust, its employees and agents and its successors and assigns, have the right, with ten (10) days prior written notice to Owner, to enter the Conservation Area at reasonable times, but no more frequently than once per year (unless Trust has reasonable belief that a violation of this easement has occurred) to inspect the Conservation Area to determine whether the Owner, its agents, representatives, successors or assigns are complying with the terms, conditions and restrictions of this Conservation Easement.

D. Construction of Terms. This Conservation Easement shall be construed to promote the purposes of Sections 35-18-1 through 35-18-6 of the Alabama Code of 1975, which authorizes the creation of Conservation Easements for purposes including those set forth in the recitals herein, and the conservation purposes of this Conservation Easement, including such purposes as are defined in Section 170(h)(4)(A) of the Internal Revenue Code. The parties recognize the Conservation Values and have the common purpose of preserving these values. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in, favor of the grant to protect the Conservation Values and effect the policies and purposes of Trust. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with its conservation purposes that would render the provision valid should be favored over any interpretation that would render it invalid. If any provision of this Conservation Easement is determined by final judgment of a court having competent jurisdiction to be invalid, such determination shall not have the effect of rendering the remaining provisions of this Conservation Easement invalid. The parties intend that this Conservation Easement, which is by nature and character primarily prohibitive (in that the Owner has restricted and limited the rights inherent in ownership of the Conservation Area), shall be construed at all times and by all parties to effectuate the conservation purposes of this Conservation Easement.

E. Amendment. Owner and Trust recognize that circumstances could arise which would justify the modification of certain of the restrictions contained in this Conservation Easement. To this end, Trust and the legal owner or owners of the Conservation Area at the time of amendment shall mutually have the right, in their sole discretion, to agree to amendments to this Conservation Easement which are not inconsistent with the Conservation Values; provided, however, that Trust shall have no right or power to agree to any amendments hereto that would result in this Conservation Easement failing to qualify as a valid conservation agreement under the "Act," as the same may be hereafter amended, or as a qualified conservation contribution under Section 170(h) of the Internal Revenue Code and applicable regulations.

F. Successors and Assigns. This Conservation Easement and all of the covenants, indemnifications, releases, easements and restrictions set forth in this Conservation Easement shall run with the land and be binding upon Owner and Owner's successors and assigns, unless



otherwise expressly provided in this Conservation Easement. The term "Owner" used in this Conservation Easement shall mean and include the above-named Owner and any of Owner's successors or assigns that are the legal owners of the Conservation Area or any part thereof. The term "Trust" used in this Conservation Easement shall mean and include the above-named Trust and of its successors and assigns, it being understood and agreed that any assignee of the rights of Trust hereunder must be a "qualified organization" as defined in Section 170 (h) of the Code, as amended, and shall carry out the obligations of Trust and the intent of this Conservation Easement.

G. Limitation of Liability. Owner shall be and remain liable for any breach or violation of this Conservation Easement only if such breach or violation occurs during such time as Owner is the legal or equitable owner of the Conservation Area or any part thereof or is in possession of the Conservation Area or any part thereof.

H. Indemnification. Owner covenants and agrees to indemnify, defend, reimburse, and hold harmless Trust, its directors, officers and employees from, for and against any loss, cost (including but not limited to reasonable attorneys' fees and witness and court fees and costs from any lawsuit or governmental administrative or law enforcement action which is commenced or threatened against Trust or any of its directors, officers or employees or to which any of the foregoing are made a party or called as a witness), liability, penalty, fine, and damage, of any kind or nature whatsoever, which Trust or any of its directors, officers or employees may suffer or incur and which arises from any of the following: the violation or alleged violation of any law in, upon or involving the Conservation Area; any breach of covenants and restrictions in this Conservation Easement; any tax or assessment upon the Conservation Area; any death or injury to any person occurring on or about the Conservation Area; any lien or attempts to enforce a lien asserted against the Conservation Area; the costs of performing any work on the Conservation Area; any loss or damage to any property on or about the Conservation Area; any dispute regarding the interpretation or enforcement of this Conservation Easement; or any lawsuit (even if initiated by Owner or Trust) or governmental administrative or law enforcement action which is commenced or threatened against Trust or any of its directors, officers or employees or to which any of the foregoing are made a party or called as a witness. Notwithstanding the foregoing, Owner shall have no obligation to indemnify, defend or reimburse Trust or hold Trust harmless Trust against loss, cost, liability, claim, penalty, fine or damage which results solely from Trust's own acts which are finally determined by a court to have been the result of bad faith, gross negligence or willful misconduct of Trust. Further, an Owner under this Conservation Easement shall have no liability or obligation hereunder for indemnification, defense, reimbursement or holding Trust harmless from loss, cost, liability, claim, penalty, fine or damage arising entirely and solely from events which occurred after such person is no longer the legal or equitable owner of the Conservation Area or any part thereof and is no longer in possession of the Conservation Area or any part thereof (it being understood that one or more subsequent Owners shall have such indemnification, defense, reimbursement, and holding harmless obligation). Without limitation of anything herein to the contrary, Owner shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operations, upkeep, and maintenance of the Conservation Area, including the general liability insurance coverage and obligation to comply with applicable law.



or otherwise to become an operator with respect to the Conservation Area within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

J. Taxes. Owner shall continue to pay all taxes, levies and assessments and other governmental or municipal charges which may become a lien on the Conservation Area, including any taxes or levies imposed to make those payments.

K. Tax Deduction. Trust makes no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to Owner or any other person or entity under United States or any state, local or other tax law to be derived from the donation of this Conservation Easement or other transaction associated with the donation of this Conservation Easement. This donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. Trust makes no warranty, representation or other assurance regarding the value of this Conservation Easement or of the Conservation Area. As to all of the foregoing, Owner is relying upon Owner's own legal counsel, accountant, financial advisor, appraiser or other consultant and not upon Trust or any legal counsel, accountant, financial advisor, appraiser or other consultant of Trust. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs affecting Owner or Owner's successors or assigns or other similar matter then Trust shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by Trust in responding or replying thereto.

L. Recording. This instrument shall be recorded in timely fashion in the official records of Shelby County, Probate Office and Trust may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

L. Notices. Any notices shall be sent by registered or certified mail, return receipt requested, to the parties at their addresses shown herein above or to other address(es) as either party establishes in writing upon notification to the other.

M. Mortgages; Deeds of Trust. All mortgages, deeds of trust and other liens or encumbrances upon all or any part of the Conservation Area that either come into existence or are recorded in the place for the recording of such liens or encumbrances after the date of this Conservation Easement will be subject to and subordinate to this Conservation Easement.

N. Compliance with Laws. Notwithstanding provisions hereof to the contrary, if any, Owner shall be solely responsible for complying with all federal, state and local laws and regulations in connection with the conduct of any use of the Conservation Area or the erection of any structure permitted hereunder, and Owner shall be solely responsible for obtaining any required permits, approvals and consents from the relevant governmental authorities in connection therewith.

O. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of





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Shelby Cnty Judge of Probate, AL  
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O. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

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

**OWNER:**

Douglas S. Dickinson 2007 Revocable Trust and Barbara G. Dickinson 2007 Revocable Trust as tenants in Common

By: Douglas S. Dickinson  
Name: Douglas S. Dickinson  
Its: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public in and for said county in said state, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of \_\_\_\_\_, an Alabama \_\_\_\_\_, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Jenny J. Montgomery  
Notary Public

[NOTARIAL SEAL]

My commission expires: 4/29/2012

[Signatures continue on following page.]



TRUST:

ALABAMA FARMER'S TRUST, LLC

By: Joe Brady III  
Name: Joe Brady  
Its: \_\_\_\_\_

STATE OF ALABAMA )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public in and for said county in said state, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of Alabama Farmer's Trust, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 7 day of July, 2008.

Jenny J. Montgomery  
Notary Public

[NOTARIAL SEAL]

My commission expires: 4/29/2012



Overall Legal for Dickinson Highway 51 Property  
Shelby County, Alabama

Exhibit A

PARCEL I:

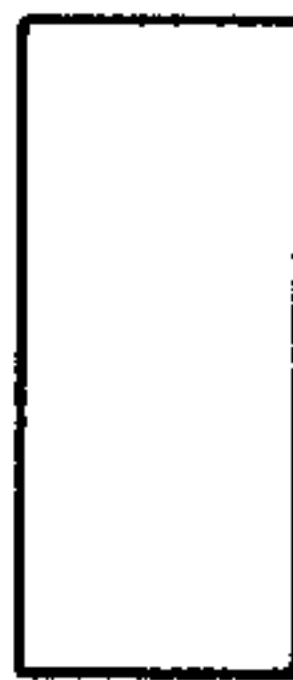
A parcel of land situated in the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 29, Township 19 South, Range 1 East, Shelby County, Alabama, described as follows:

Commencing at the NW corner of Section 29, Township 19 South, Range 1 East, Shelby County, Alabama; thence N  $90^{\circ}00'00''$  E along the North boundary line of said Section for a distance of 1342.59'; thence S  $2^{\circ}24'52''$  E, a distance of 3422.70' to the South right of way line of US Highway 280 for the point of beginning. Thence, continuing South a distance of 28.28'; thence N  $89^{\circ}32'34''$  E a distance of 14.98'; thence N  $89^{\circ}30'53''$  E a distance of 582.91'; thence S  $02^{\circ}23'35''$  E a distance of 592.59' to the North right of way line of the Seaboard Coastline Railroad; thence N  $84^{\circ}30'40''$  E along said right of way line a distance of 39.40'; thence N  $17^{\circ}50'35''$  E a distance of 209.90'; thence N  $84^{\circ}35'00''$  E a distance of 419.81' to the West right of way line of Shelby County Road No. 51 and the point of curvature of a tangent curve concave to the Southeast having a radius of 1054.48', a central angle of  $02^{\circ}43'01''$ , a chord of 50.06' bearing N  $24^{\circ}25'27''$  E, thence Northeast along said curve a distance of 50.07'; thence N  $65^{\circ}16'08''$  W a distance of 187.25'; thence N  $30^{\circ}15'41''$  E a distance of 391.23' to the South right of way line for US Highway 280; thence S  $83^{\circ}39'20''$  W a distance of 1078.68 to the point of curvature of a tangent curve concave to the Southeast having a radius of 15625.22', a central angle of  $00^{\circ}10'31''$ , a chord of 47.60' bearing N  $85^{\circ}14'35''$  E, thence Northeast along said curve a distance of 47.69' more or less to the point of beginning; being situated in Shelby County Alabama



US Hwy 280  
300' RDW

LEGEND:



EASEMENT  
BOUNDARY

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6.3927 Acres

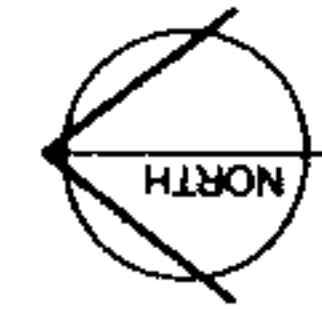
GRAPHIC SCALE



Shelby County, AL 07/07/2008  
State of Alabama

Deed Tax: \$.50

20080707000273270 16/16 \$56.50  
Shelby Cnty Judge of Probate, AL  
07/07/2008 01:33:41PM FILED/CERT



REVISED ON 05/30/08 LPS  
COMPUTER CALCULATED ADREAGE: 6.392 ACRES

DICKINSON HWY 51 PROPERTY  
SHELBY COUNTY, ALABAMA

LANDS HELD FOR INVESTMENT

BOUNDARY SURVEY

