

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (this "Easement") is granted this 27th day of December, 2012, by AFK LAND, LLC, 120 Bishop Circle, Pelham, Alabama 35124 ("Grantor"), to and for the benefit of the PELICAN COAST CONSERVANCY, LLC, an Alabama limited liability company (the "Subsidiary"), by and through its sole member the ATLANTIC COAST CONSERVANCY, INC., a nonprofit Georgia corporation having an address at 634 South Main Street, Jasper, Georgia 30143 (the "Conservancy") (with Grantor and the Conservancy sometimes being referred to, individually, as a "Party", and collectively, the "Parties").

RECITALS

WHEREAS, it is expressly understood that this Easement is being freely entered into, and that each Party has had an opportunity to have this instrument, and all associated documents, reviewed by an attorney of his, her, or its choosing; and

WHEREAS, it is expressly understood that the donation of the Easement gives rise to a property right, immediately vested in the Subsidiary, and that this Easement has a fair market value that is at least equal to the proportionate value that this Easement bears on the date hereof to the fair market value of the Property (as defined below) as a whole on the date hereof; and

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Shelby County, State of Alabama, located off of County Road 16 in Calera, Alabama 35040. The Property is comprised of 128 acres of land (tax parcels #28 4 19 0 000 004.006 (30 acres), #28 4 19 0 000 004.004 (3 acres), #28 4 19 0 000 004.003 (23 acres), #28 4 19 0 000 004.002 (19 acres), #28 4 19 0 000 004.001 (53 acres)) in Shelby County, Alabama, as is more particularly described in **Exhibit "A"** (the "Property") hereof; and

WHEREAS, this Easement covers and affects a surveyed portion of that Property that is comprised of 122.42 +/- acres of land Shelby County, Alabama, as is more particularly described in **Exhibit "B"** (the "Easement Area") hereof; and



WHEREAS, the Easement Area in its present state has not been developed and possesses significant wildlife, forest, agricultural, open space, and plant habitat features. The Easement Area has no structures, several partially improved access roads, and is predominantly composed of a secondary successional oak-hickory-pine forest on moderate Southern Limestone/Dolomite Valleys and Low Rolling Hills slopes of the Ridge and Valley ecoregion leading to a first-order freshwater stream (unnamed tributary of Dry Creek), springhead and spring run, and a small freshwater pond (collectively "Conservation Values") that are of great importance to the Conservancy, the people of Shelby County, and the people of the State of Alabama and are worthy of preservation; and

WHEREAS, the unnamed tributaries of Dry Creek, the springhead, and the spring run arise from and transect the Easement Area from north to south for a linear distance of approximately 1,661 feet (506 meters). These streams are located in the Little Cahaba River watershed of the Alabama River Basin. These streams are located in east-central Alabama (USGS Hydrologic Unit Code (HUC) 03150202), and are designated as "not supporting" under the U.S. Environmental Protection Agency (EPA) 305B listing (http://iaspub.epa.gov/tmdl/enviro_v2.wcontrol?p_id305b=GAR031501020509). The "not supporting" designation denotes that a particular waterway is incapable of providing some or all applicable uses: providing drinking water supplies, supporting aquatic life, allowing fish and shellfish consumption, suitable for primary and secondary contact recreation usages (e.g., swimming and boating), and agricultural uses. In order to provide the necessary protection of the critical riparian habitat for all species, the protective riparian and buffer should be much greater than 50 feet (Semlitsch & Bodie 2003); and

WHEREAS, restoration of native streambank composition and structure is identified as a conservation action that will benefit Alabama's rivers and streams in the Southern Limestone/Dolomite Valleys and Low Rolling Hills subregion of the Ridge and Valley ecoregion in the Conserving Alabama's Wildlife; A Comprehensive Strategy (CWCS). The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of Section 170(h)(4)(A)(ii) of the Internal Revenue Code of 1986, as amended (the "Code") promotes the CWCS by providing for permanently protected high priority habitat on private land. The CWCS was promulgated by the Alabama Department of Conservation and Natural Resources, Division of Wildlife and Freshwater Fishes, and conservation partners including the U.S. Fish and Wildlife Service to protect the biological diversity of Alabama; and

WHEREAS, the Cahaba River Basin is identified as a high priority watershed in Southern Limestone/Dolomite Valleys and Low Rolling Hills subregion of the Ridge and Valley ecoregion in the CWCS. The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of Section 170(h)(4)(A)(ii) of the Code promotes the CWCS by providing for permanently protected high priority habitat on private land. The CWCS was promulgated by the Alabama Department of Conservation and Natural Resources, Division of Wildlife and Freshwater Fishes, and conservation partners including the U.S. Fish and Wildlife Service to protect the biological diversity of Alabama; and

WHEREAS, this Conservation Easement will establish a 100 foot riparian buffer Resource Protection Area (as defined in Section 8) around the entire course transect of unnamed tributaries of Dry Creek, the springhead, and the spring run. Perpetual protection of these natural buffers will facilitate the restoration of native streambank composition, and will only permit low-impact outdoor recreation, education, nature observation and scientific studies; and

WHEREAS, maintaining the Easement Area as provided herein preserves the amount and diversity of natural habitat in an area that would otherwise be threatened by development pressure. The preservation of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem meets the conservation purpose Section 170(h)(4)(A)(ii) of the Code; and

WHEREAS, maintaining the Easement Area as provided herein preserves the amount and diversity of open space available for wildlife habitat in an area that would otherwise be threatened by development pressure. The preservation of a relatively natural habitat pursuant to a clearly delineated Federal, State, or local governmental conservation policy meets the conservation purpose of Section 170(h)(4)(A)(iii) (II) of the Code; and

WHEREAS, isolated wetlands among a large terrestrial ecosystem provide a key role in amphibian productivity and maintaining community dynamics by coupling aquatic habitats with those adjacent terrestrial habitats via transfer of biomass and energy (Gibbons *et al* 2006, Harper et al 2008, Semlitsch & Bodie 1998); and

WHEREAS, this Easement will establish a 100 foot (30.48 meter) littoral buffer Resource Protection Area (as defined in Section 8) around the entire perimeter of the freshwater pond. This natural buffer will only permit low-impact outdoor recreation, education, nature observation and scientific studies; and

WHEREAS, the Easement Area provides scenic views from Shelby County Road 16 that are of great importance to the Conservancy, the people of Shelby County, and the people of the State of Alabama, and is worthy of preservation; and

WHEREAS, maintaining the Easement Area as provided herein allows scenic enjoyment for the general public. The preservation of open space (including farmland and forestland) where such preservation provides scenic enjoyment for the general public meets the conservation purpose Section 170(h)(4)(A)(iii) (I) of the Code; and

WHEREAS, the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) is the federal agency that works hand-in-hand with the American people to conserve natural resources on private lands. The allowed farming/forestry practices, which are the principal uses of the Easement Area, shall be consistent with sound agricultural practices and a current NRCS conservation plan or its equivalent, as prepared by the USDA or similar agency or professionally trained individual, are all in an effort to conserve productive farming soils; and

WHEREAS, the economic health of the State of Alabama is closely linked to its agricultural lands which not only produce food products, fuel, timber, and other products, but also provide much of Alabama's scenic beauty upon which the State's tourism and recreational industries rely; and

WHEREAS, this Easement will establish an Agricultural Area (as defined in Section 8) protection zone that will generally exclude or control the construction of buildings and improvements except those necessary for agriculture and agricultural-related practices, and will preserve agricultural production of prime Alabama soils. The preservation of open space (including farmland and forestland) where such preservation is pursuant to a clearly delineated Federal, State, or local government conservation policy and will yield a significant benefit meets the conservation purpose of Section 170(h)(4)(A)(iii) (II) of the Code; and

WHEREAS, the specific Conservation Values are documented in an inventory of relevant features of the Easement Area ("Baseline Documentation Report"), as it may be supplemented with reports, maps, photographs, and other documentation prepared at the time of the easement herein granted and which is on file with the Conservancy, that the Parties agree accurately represents the Easement Area at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, this Easement constitutes a 'qualified real property interest' as established in Section 170(h)(2)(C) of the Code and a 'conservation easement' within the meaning of Alabama Code § 35-18-1, *et seq.*; and

WHEREAS, Grantor intends, as owner of the Easement Area, to convey to the Conservancy the right to preserve and protect the Conservation Values in perpetuity; and

WHEREAS, the Conservancy agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values for the benefit of this generation and the generations to come; and

WHEREAS, the Subsidiary is an entity disregarded for tax purposes, wholly owned by the Conservancy; and

WHEREAS, the Conservancy is: 1) a publicly supported, nonprofit organization, created primarily for the conservation of the environment, is tax exempt within the meaning of Section 501(c)(3), Section 509(a)(2) and Section 170(b)(1)(A)(vi) of the Code, 2) a "qualified organization" within the meaning of Section 170(h)(3) of the Code and Treasury Regulations Section 1.170A-14(c), and 3) a "holder" under the State of Alabama under the Uniform Conservation Easement Act (Alabama Code § 35-18-1, *et seq.*); and

WHEREAS, the State of Alabama has recognized the importance of private efforts towards the preservation of natural systems in its Uniform Conservation Easement Act (Alabama Code § 35-18-1, *et seq.*).

NOW, THEREFORE, Grantor, as an absolute charitable gift with no consideration, other than the covenants, mutual agreements, conditions, and promises herein contained, does unconditionally and irrevocably hereby grant and convey unto the Conservancy, its successors and assigns, forever, a conservation easement as defined in Alabama Code § 35-18-1, *et seq.*, which expressly authorizes the conveyance herein contained, Grantor hereby grants and conveys an absolute charitable gift with no monetary consideration to the Conservancy and its successors and assigns, a perpetual and irrevocable conservation easement consisting of the rights and restrictions enumerated in this Easement, upon, over and across the Easement Area. The Conservancy, by its execution hereof, accepts the foregoing grant of this Easement, and the recordation of this Deed shall constitute a "recordation of the acceptance" by the Conservancy within the meaning of Code of Alabama § 35-18-2(b). Upon the recordation hereof, the Conservancy shall be entitled to enforce the Conservation Easement pursuant to Code of Alabama § 35-18-3 (without intending that the existence of this Conservation Easement be dependent on the continuing existence of such laws):

1. Grant. Grantor hereby voluntarily and irrevocably grants and conveys to the Conservancy this Easement in perpetuity consisting of the rights and restrictions enumerated herein, upon, over and across the Easement Area, to have and to hold said Easement unto the Conservancy and its successors and assigns forever. This Easement shall constitute a binding servitude upon the Easement Area and shall be subject to prior reservations, easements, encumbrances and exceptions of record, except as otherwise set forth herein. The grant of this Easement gives rise to a property right, immediately vested in the Subsidiary.

2. Purpose. It is the purpose (the "Purpose") of this Easement to assure that the Easement Area will be retained forever predominantly in its natural condition and to prevent any use of the Easement Area that will impair or interfere with the Conservation Values as set forth in this Easement. Grantor intends that this Easement will confine the use of the Easement Area to such activities including, without limitation, those involving recreational use of the Easement Area as are consistent with the purpose of this Easement.

2.1 Climate Change. In granting this Easement, Grantor and the Conservancy acknowledge the findings of the Intergovernmental Panel on Climate Change (IPCC) that the warming of the Earth's climate system is unequivocal, and that climate changes caused by global warming have already begun. Grantor and the Conservancy agree that the occurrence of any climate change-caused impacts to the Easement Area will not impair the validity of this Easement and shall not alone be considered grounds for the release, termination, or other extinguishment of this Easement whether in whole or in part.

2.2. Natural Acts. In granting this Easement, Grantor and the Conservancy mutually agree that nothing contained in this Easement shall be construed to entitle the Conservancy to bring any action against Grantor for any injury to/change in the Easement Area resulting from natural causes beyond Grantor's control, including fire, flood, storm, natural earth movements, or other natural events, or from any prudent action taken by Grantor in an emergency to prevent, abate, or mitigate significant injury or change to the Easement Area resulting from such natural causes, (collectively "Natural Causes").

3. Baseline Documentation Report. The parties acknowledge that a Baseline Documentation Report of the Easement Area has been prepared by a person familiar with Conservation Easements, the Easement Area, and the environs. The Baseline Documentation Report has been reviewed and approved by the Conservancy and Grantor as an accurate representation of the biological and physical condition of the Easement Area at the time of the grant. Grantor has retained a copy of the Baseline Documentation Report for their records and a copy of the Baseline Documentation Report is on file with the Conservancy.

4. Rights of the Conservancy. To accomplish the Purpose of this Easement, the Grantor conveys the following rights to the Conservancy:

4.1 the right to preserve and protect the Conservation Values in perpetuity; and

4.2 the right to enter upon the Easement Area at reasonable times, to inspect the Easement Area thoroughly, to monitor Grantor's compliance with and otherwise enforce the Purposes of the Easement; provided that such entry shall be upon seventy-two (72) hour prior notice to Grantor, and except that no such notice shall be required in the event of an emergency or if the Conservancy reasonably believes that immediate entry upon the Easement Area is essential to prevent or mitigate a violation of this Easement. The Conservancy shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Easement Area; and

4.3 the right to prevent any activity on or use of the Easement Area that is inconsistent with the Purposes of this Easement, or which may have an adverse impact on the Conservation Values, and to require the restoration of such areas or features of the Easement Area that are damaged by any inconsistent activity or use with the exception of Natural Causes; and

4.4 the right to be notified in writing by Grantor, its heirs, successors, transferees or assigns, upon the exercising of the reserved right set forth in Section 6.1; and

4.5 any other rights that the Parties may approve consistent with the Purpose of this Easement and the Conservation Values (e.g. undertaking enhancement projects, identifying additional Conservation Values, or conducting non-intrusive scientific studies).

5. Prohibited Uses. Prohibited uses of the Easement Area are specifically described in Subsections 5.1 thru 5.19. In addition, any activity that is inconsistent with the Purposes of the Easement is prohibited.

5.1 the change, disturbance, alteration, or impairment of the relatively natural habitat for plants, wildlife, or similar ecosystems within and upon the Easement Area, except as provided herein in the Acceptable Development Area and the Agricultural Area; and

5.2 the construction and/or placement of any building structures, permanent camping accommodations, mobile homes, or billboards, except as expressly provided herein in the Agricultural Area as defined below; and

- 5.3 the conveyance of easements, rights-of-ways, the paving or grading of roadways or the construction of any roadways, except as expressly provided herein in the Acceptable Development Area and the Agricultural Area; and
- 5.4 the removal, destruction, or cutting of native vegetation, except as provided herein in the Acceptable Development Area and the Agricultural Area; and
- 5.5 the introduction of non-native plants and/or animal species unless in accordance with applicable laws, a current NRCS conservation plan, a Ten Year Forestry Management Plan or its equivalent, and in a manner consistent with sound environmental conservation practices and current scientific literature ; and
- 5.6 the use of herbicides or pesticides other than for the control of noxious weeds and/or pests in accordance with applicable laws, a current NRCS conservation plan, a Ten Year Forestry Management Plan or its equivalent, and in a manner consistent with sound environmental conservation practices and current scientific literature; and
- 5.7 the exploration for, or extraction of, minerals, oil, gas, or other hydrocarbons, soils, sands, gravel, rock, or other materials on or below the surface of the Easement Area. Grantor, its heirs, successors, transferees or assigns shall not transfer, lease or otherwise separate the minerals, oil, gas, or other hydrocarbons, soils, sands, gravel, rock, field stone, or other materials from the Easement Area; and
- 5.8 the use of any motorized vehicles off of roadways or trails now existing (as defined in the Baseline Documentation Report); except as expressly provided herein in the Acceptable Development Area and the Agricultural Area; and
- 5.9 the accumulation, dumping or other disposal of trash, garbage, or other offensive refuse on the Easement Area other than the collection and disposal of natural byproducts on the Easement Area (including tree limbs and organic household compost materials) as long as in accordance with applicable laws and regulations; and
- 5.10 the manipulation, diversion, or other alteration of stream(s); and
- 5.11 the degradation, pollution, or drainage of any surface or sub-surface waters; and
- 5.12 any use that would increase or substantially add to the risk of erosion as determined by historical and current scientific literature; and
- 5.13 any change in the topography of the Easement Area through the placement therein of soil, landfill, dredging spoils, or other material except as incidental and necessary to the activities permitted herein in the Agricultural Area; and
- 5.14 no more than *de minimis* use for commercial recreation in accordance with Section 2031(c) of the Code; and

5.15 the transfer, encumbrance, lease, sale, or other separation of the water rights necessary and appropriate for the present and future occupation of human, faunal and vegetational populations on the Easement Area; and

5.16 the erection, construction, installation, relocation or use of a communication facility, a telecommunications facility, a network element or any other telecommunications facility, equipment or material that may be used for telecommunications or to provide such services; except for low capacity personal services; and

5.17 the erection, construction, installation, relocation or use of utility lines or substations not necessary and directly related to uses of the Property permitted in the Easement Deed, except as expressly provided herein in the Acceptable Development Area(s); and

5.18 the erection, construction, installation, relocation or use of any lighting which interferes with wildlife on the Easement Area or with landowners within the viewscape of the Easement Area; and

5.19 the division, subdivision, or *de facto* subdivision of the Property into two or more parcels of land or separate interests.

6. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns of the Easement Area (each of which shall be “Grantor” within the meaning of this paragraph), all rights accruing from its ownership of the Easement Area, including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not expressly prohibited herein and are not inconsistent with the Purpose of this Easement, including without limitation the rights and permitted uses set forth in Section 7 and Section 8.

6.1 Hunting and Fishing. Hunting, fishing, trapping and predator control, in a manner consistent with federal, state and local laws, are permitted on the Easement Area. The Parties agree and acknowledge that controlled hunting and restocking of fish may be desirable to maintain sustainable wildlife populations consistent with the condition of the habitat.

7. Forest Carbon Services. Grantor shall hold, market, and transfer any and all rights related to forest carbon, including but not limited to mitigation credits and offsets, now present or existing in the future, and the right to report such mitigation credits or offsets to any relevant public or private regulatory/oversight body or registry whether pursuant to a voluntary system or one created by local, federal, or international law or regulation, which rights arise from or are generated by or from the Easement Area on or after the date of this Easement (collectively the “Forest Carbon Services”). The Forest Carbon Services retained hereunder shall specifically include, but shall not be limited to, the right to hold, reserve, report, market, or retire any greenhouse gas mitigation credits or offsets that may be generated upon the Easement Area, and other types of mitigation credits or offsets that arise from the production of forest carbon. Grantor shall have the absolute discretion in determining the purchaser(s) and/or recipient(s) of any Forest Carbon Services and the consideration for such forest carbon services shall inure to the sole benefit of Grantor.

8. Permitted Uses. Permitted uses of the Easement Area vary depending on where on the Easement Area this use occurs as specifically indicated below. The Easement Area is divided into three (3) principal areas all of which are depicted in the Easement Map in *Section XI* of the Baseline Documentation Report and generally described below:

Acceptable Development Area (also referred to as an "ADA") – The area in which 1) a single family dwelling or structure, associated accessory building(s), and 2) agricultural access roads may be placed to the extent listed below. A total of four (4) Acceptable Development Areas will exist on the entire Easement Area: 1) the Acceptable Development Area – Main Access Road, 2) the Acceptable Development Area – Secondary Access Road, 3) the Acceptable Development Area – Powerline easement, and 4) the Acceptable Development Area – Gasline easement.

- The Acceptable Development Area – Main Access Road will consist of a linear buffer of approximately 40 feet (12.192 meters) extending from Shelby County Road 16 into the interior of the Easement Area. The linear buffer will originate from the centerline of the main access road and will extend 20 feet (6.096 meters) to either side.
- The Acceptable Development Area – Secondary Access Road will consist of a linear buffer of approximately 30 feet (9.14 meters) extending from any current secondary access road. The linear buffer will originate from the centerline of any current secondary access road and will extend 15 feet (4.57 meters) to either side.
- The Acceptable Development Area – Powerline easement will encompass the existing powerline right-of-way (ROW) as it bisects the Property from north to south and forms the northern boundary of the Easement Area, and will consist of a linear buffer of approximately 60 feet (18.28 meters).
- The Acceptable Development Area – Gasline easement will encompass the existing gasline right-of-way (ROW) as it bisects the Property from north to south, and will consist of a linear buffer of approximately 30 feet (9.144 meters). The linear buffer will originate from the centerline of the existing gasline ROW and will extend 15 feet (4.57 meters) to either side of the centerline of the ROW.

Resource Protections Area (also referred to as "RPA") – The area(s) which contain(s) unique or special natural features including, but not limited to, streams, ponds, springheads, spring runs, wetlands, marshes, or steep slopes and their supporting buffer lands in which this Easement excludes the construction or placement of permanent or temporary buildings and anthropogenic perturbations (manmade disturbances). A total of two (2) Resource Protection Areas will exist on the entire Easement Area: 1) the Resource Protection Area – Dry Creek, 2) the Resource Protection Area – Freshwater Spring, and 3) the Resource Protection Area – Freshwater Pond.

- The Resource Protection Area – Dry Creek will consist of a linear buffer of approximately 100 feet (30.49 meters). The linear buffer will originate from the

approximate center of the unnamed tributaries of Dry Creek, as specifically identified in *Section XI* of the Baseline Documentation Report, and will extend for 100 feet (30.48 meters) to either side of the aquatic feature.

- The Resource Protection Area – Freshwater Spring will consist of a linear buffer of approximately 100 feet (30.49 meters). The linear buffer will originate from the approximate center of the freshwater springhead and the entire course of the spring run, as specifically identified in *Section XI* of the Baseline Documentation Report, and will extend for 100 feet (30.48 meters) to either side of the aquatic feature.
- The Resource Protection Area – Freshwater Pond will consist of a polygonal buffer of approximately 100 feet (30.48 meters). The linear buffer will originate at the high water line of the freshwater pond, as specifically identified in *Section XI* of the Baseline Documentation Report, and will radiate in an outwards direction.

Agricultural Areas (also referred to as “AA”) – The remainder of the Easement Area, after excluding the Acceptable Development Area(s), and Resource Protection Area, which may be used for the production of plant and animal products for domestic purposes (including animal husbandry, floriculture, horticulture, orchardry, carbon sequestration/carbon offset), the grazing of domestic animals, the creation of alternative energy (wind & solar), and the processing and sale of farm products predominately grown, produced or raised on the Agricultural Area, but shall not be deemed to include industrial processing and packaging.

8.1.A Acceptable Development Area – Main Access Road. Without prior written permission from or notice to the Conservancy, Grantor may maintain, improve, repair, remove, or replace any secondary access road within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as ADA – Main Access Road. Said main access road shall be located completely within the corresponding ADA – Main Access Road and shall connect the public road (Shelby County Road 16) to the Easement Area. No portion of the access road shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material except for steep slope areas that may require additional hardening of the surface to reduce erosion. The foregoing permissions include, to the maximum extent necessary, temporary easements and permission to access any area of the Property in connection with such permissions, including, without limitation, construction, repair, and maintenance of the structure and appurtenances permitted subservient utilities. Any temporary easements and permission to access any area of the Property in connection with such permissions which is disturbed by activity must be revegetated and restored to a natural condition promptly after completion of extraction to ensure that the location of such activity does not substantially diminish or impair the Conservation Values.

8.1.B Acceptable Development Area – Secondary Access Road. Without prior written permission from or notice to the Conservancy, Grantor may maintain, improve, repair, remove, or replace any secondary access road within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as ADA – Secondary Access Road. No portion of the access road shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material except for steep slope areas that may require additional

hardening of the surface to reduce erosion. The foregoing permissions include, to the maximum extent necessary, temporary easements and permission to access any area of the Property in connection with such permissions, including, without limitation, construction, repair, and maintenance of the structure and appurtenances permitted subservient utilities. Any temporary easements and permission to access any area of the Property in connection with such permissions which is disturbed by activity must be revegetated and restored to a natural condition promptly after completion of extraction to ensure that the location of such activity does not substantially diminish or impair the Conservation Values.

8.1.C Acceptable Development Area – Powerline easement. Without prior written permission from or notice to the Conservancy, Alabama Power may maintain, repair, remove, or replace the powerline and its improvements within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Acceptable Development Area – Powerline easement.

8.1.D Acceptable Development Area – Gasline easement. Without prior written permission from or notice to the Conservancy, Colonial Pipeline may maintain, repair, remove, or replace the gasline and its improvements within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Acceptable Development Area – Gasline easement.

8.2 *Resource Protection Area*. The following activities are permitted within the Resource Protection Area(s) to the extent indicated.

8.2.A Recreation and Educational Usages. Without prior written permission from or notice to the Conservancy, Grantor may use area(s) shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Resource Protection Area(s) for low-impact outdoor recreation, education, nature observation and scientific study, so long as these activities preserve the value of the Resource Protection Area(s) as wildlife habitat, riparian buffer and aquatic ecosystem.

8.2.B Trails. Without prior written permission from or notice to the Conservancy, Grantor may establish and maintain a foot trail anywhere in the Resource Protection Area to be used for outdoor recreation and education.

8.2.B.i Trail. The trail may include steps and railings and other trail surface structures as well as bridges and culverts for traversing wet areas.

8.2.B.ii Trail Width. The trail may not exceed 10 feet (3.048 meters) in width.

8.2.B.iii Trail Covering. The trail may be covered, if at all, by wood chips, gravel, or any other porous surface so as not to enhance stormwater runoff into the wetland/stream.

8.2.B.iv Trail Signs. Signs to mark the trail; to provide information regarding applicable times, place, and manner restrictions; for interpretive purposes, and to indicate the interest of Grantor and Beneficiaries and the Conservancy are permitted.

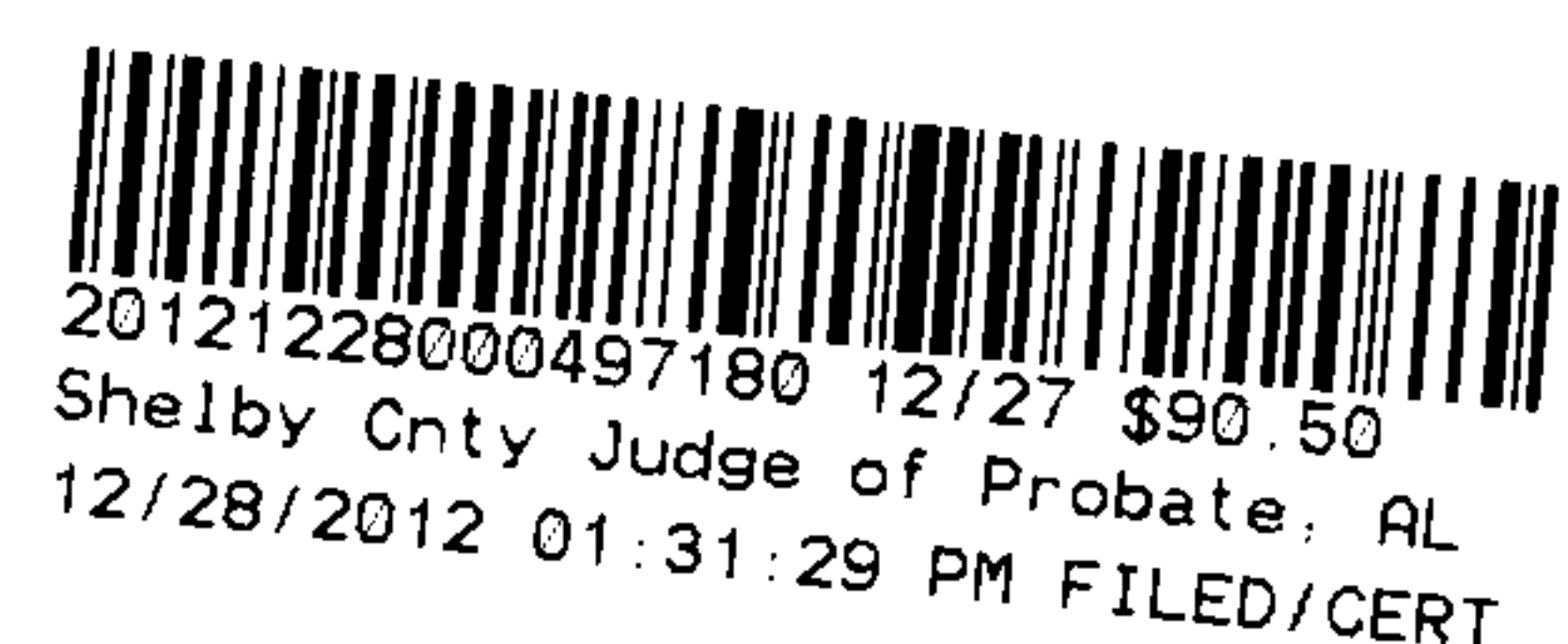
8.2.C Earthen Dam. With prior written notice to the Conservancy, Grantor may maintain, repair or replace any of the earthen dams shown in the Conservation Easement Map, Section *XI* of the Baseline Documentation Report, Exhibit "B", as Resource Protection Area – Freshwater Pond. No portion of the Earthen Dam shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, and shall not be enlarged or extended. The foregoing permissions include, to the maximum extent necessary, temporary easements and permission to access any area of the Property in connection with such permissions, including, without limitation, construction, repair, and maintenance of the structure and appurtenances permitted subservient utilities. Any temporary easements and permission to access any area of the Property in connection with such permissions which is disturbed by activity must be revegetated and restored to a natural condition promptly after completion of extraction to ensure that the location of such activity does not substantially diminish or impair the Conservation Values.

8.2.D Water Resources. Without prior notice to the Conservancy, Grantor may utilize and maintain water sources, courses, and bodies within the Resource Protection Area(s) so long as such usages and activities are carried out in accordance with sound agricultural practices and in accordance with local, state and federal laws. Under no circumstances will any wetlands in the Resource Protection Area(s) be drained or substantially altered.

8.2.E Control of Exotic Species. Without prior written notice to the Conservancy, Grantor may manage the area shown in the Conservation Easement Map, Section *XI* of the Baseline Documentation Report, as the Resource Protection Area(s) for intrusion of exotic species provided that all such cuttings and vegetation management shall be conducted in a manner that minimizes damage to the Property, and so long as these activities preserve the value of the respective Resource Protection Area as wildlife habitat, aquatic ecosystem, and to preserve the Conservation Values. The foregoing permissions include, to the maximum extent necessary, temporary easements and permission to access any area of the Property in connection with such permissions, including, without limitation, construction, repair, and maintenance of the structure and appurtenances permitted subservient utilities. Any temporary easements and permission to access any area of the Property in connection with such permissions which is disturbed by activity must be revegetated and restored to a natural condition promptly after completion of extraction to ensure that the location of such activity does not substantially diminish or impair the Conservation Values.

8.2.F Carbon Credits. Grantor shall retain all rights, benefits, privileges and credits related to carbon sequestration in the above ground and below ground biomass, and the soil of the Resource Protection Area.

8.3 Agricultural Areas. Without prior written permission from or notice to the Conservancy, Grantor may produce aquaculture, crops, livestock, trees, carbon sequestration for carbon offset, and conduct farm operations which includes but is not limited to the right to establish, reestablish, maintain, and use cultivated forests, fields, orchards, and pastures within the area shown in the Conservation Easement Map, Section *XI* of the Baseline Documentation Report, as Agricultural Area. These farming/forestry practices, which are the principal uses of the Easement Area, shall be consistent with sound agricultural practices and a current NRCS conservation plan or its equivalent, as prepared by the USDA or similar agency or professionally trained individual.



8.3.A Agricultural Buildings and Improvements. Without prior written permission from or notice to the Conservancy, Grantor may create, maintain, improve, repair, remove, enlarge or replace rustic structures to assist with the agricultural operation within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Agricultural Area provided that all such structures must be designed and situated to blend with natural surrounding and compliment the natural and scenic features of the landscape, and to preserve the agricultural production of prime Alabama soils.

8.3.B Fences. Without prior written permission from or notice to the Conservancy, Grantor may construct, maintain, preserve, improve, repair, remove, enlarge or replace existing fences anywhere in the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Agricultural Area, for purposes of preventing trespass on the Easement Area.

8.3.C Hunting Stands and Platforms. Without prior written permission from or notice to the Conservancy, Grantor may establish and maintain hunting stands and platforms anywhere in the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Agricultural Area, provided that such accessories are erected and maintained in a manner that minimizes damage to the Easement Area.

8.3.D All-Terrain Vehicles. Without prior written permission from or notice to the Conservancy, Grantor may use, or permit the use of all-terrain vehicles on the secondary access roads now existing on the Easement Area, or in the future those developed on the Easement Area provided that:

- 1) such roads are used by others exclusively in accordance with the Easement;
- 2) the permission afforded by Grantor consists of short-term license to use the road system for a period not to exceed twelve (12) months, and is not a longer term license, right-of-way, easement or other permanent legal interest;
- 3) Grantor shall remain responsible for any such license compliance with this Easement.

8.3.D.i All-Terrain Vehicle Access. Without prior written permission from or notice to the Conservancy, Grantor may permit the temporary use of all-terrain vehicles for agricultural and non-commercial recreational purposes anywhere within the area shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Agricultural Area.

8.3.E Recreation and Educational Usages. Without prior written permission from or notice to the Conservancy, Grantor may use area(s) shown in the Conservation Easement Map, *Section XI* of the Baseline Documentation Report, as Agricultural Area(s) for low-impact outdoor recreation, education, nature observation and scientific study, so long as these activities preserve the agricultural production of prime Alabama soils.

8.3.F Carbon Credits. Grantor shall retain all rights, benefits, privileges and credits related to carbon sequestration in the above ground and below ground biomass, and the soil of the Agricultural Area.

9. Access. Nothing contained herein shall be construed as affording the public access to any portion of the Easement Area, although the Grantor may permit public access to the Easement Area on such terms and conditions as it deems appropriate, provided that such access is consistent with the terms of this Easement.

10. Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:

10.1 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 Easement Area, except for fuels customarily used or transported in connection with camping, recreational or construction activities on the Easement Area;

10.2 There are not now any underground storage tanks located on the Easement Area, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Easement Area in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;

10.3 Grantor and the Easement Area are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Easement Area and its use;

10.4 There is no pending or threatened litigation in any way affecting, involving, or relating to the Easement Area;

10.5 No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Easement Area or its use, nor do there exist any facts or circumstances that Grantor might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders;

10.6 Grantor warrants that Grantor has good and sufficient title to the Easement Area, that Grantor has good right, full power and lawful authority to grant and convey this Easement, that any mortgages or liens on the Easement Area are and shall remain subordinate to the terms of the Easement, and Grantor hereby promises to warrant and forever defend the title to the Easement against all and every person or persons lawfully claiming by, through or under Grantor, the whole or any part thereof, excepts for rights-of-way, easements, restrictions, covenants and

mineral reservations of record, which are acceptable to the Conservancy at the time of execution of this Easement.

11. Notice of Intention to Undertake Certain Permitted Actions. Unless otherwise stated therein, Grantor will notify the Conservancy of their intention to engage in an activity reserved in Section 8 of this Deed. Any such notice must be given at least sixty (60) days before the commencement of the activity. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Conservancy to make an informed judgment as to its consistency with the purpose of this Easement. Continuation of existing or previously approved practices and use, upkeep, completion, and repair of existing structures, roads and trails shall not require notice.

12. The Conservancy's Approval. The Conservancy and/or the Subsidiary shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore under Section 8 of this Deed. Conservancy's approval may be withheld only upon a reasonable determination by Conservancy that the action as proposed would be inconsistent with the purpose of this Easement, and impair the conservation interests associated with the Easement Area.

13. Conservancy's Remedies: Enforcement. The Conservancy and/or the Subsidiary shall have the right to prevent and correct or require correction of violations of the terms and Purposes of this Easement. The Conservancy may enter the Easement Area for the purpose of inspecting for violations in accordance with Subsection 4.2 above. If the Conservancy finds what it believes is a violation, or a threat of a violation, the Conservancy shall notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall immediately discontinue any activity that could increase or expand the alleged violation and shall either: (1) restore the Easement Area as best possible to its condition prior to the violation in accordance with a plan approved by the Conservancy; or (2) provide a written explanation to the Conservancy of the reason why the alleged violation should be permitted. If the Conservancy is not satisfied with Grantor's written explanation, both parties agree to meet as soon as possible to resolve the difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator in an attempt to resolve the dispute pursuant to Subsection 13.1 below.

Should Grantor not immediately discontinue any activity that could increase or expand the alleged violation; or should mediation fail to resolve the dispute within sixty (60) days of the Conservancy's written notice to Grantor of the alleged violation, or by such other date as the Parties may mutually agree, the Conservancy may take appropriate legal action pursuant to the Subsections below. The Conservancy's remedies described in this Easement shall be cumulative and shall be in addition to all remedies now and hereafter existing at law or in equity, including the right to recover any damages for loss of scenic or environmental Values. The failure of the Conservancy to discover a violation or to take immediate legal action does not and should not bar the Conservancy from exercising the right of enforcement at any later date.

13.1 Mediation. If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the purpose of this Easement, and Grantor agrees not to proceed

with the use or activity pending resolution of the dispute, either party may refer the dispute to mediation by request made in writing upon the other. Within ten (10) days of the receipt of such request, the Parties shall select a single trained and impartial mediator with experience in Conservation Easements and other land preservation tools. If the Parties are unable to agree on the selection of a single mediator, then the Parties shall each select a trained and impartial mediator with experience in Conservation Easements and other land preservation tools, and those two mediators shall select a similarly skilled mediator who shall alone mediate the dispute. Mediation shall proceed in accordance with the following guidelines:

13.1.A Purpose. The purpose of the mediation is to: (1) promote discussion between the Parties; (2) assist the Parties to develop and exchange pertinent information concerning the issues in dispute; and (3) assist the Parties to develop proposals which will enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or *de facto* modification or amendment of the terms, conditions, or restrictions of this Easement.

13.1.B Participation. The mediator may meet with the Parties and their counsel jointly or *ex parte*. The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the parties with settlement authority will attend mediation sessions as required by the mediator.

13.1.C Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the Parties or their respective counsel. The mediator shall not be subject to subpoena by any party in any subsequent litigation. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceedings or construed as an admission of a party.

13.1.D Time Period. Neither party shall be obligated to continue the mediation process beyond a period of sixty (60) days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute. The Parties shall each bear 50% of the mediator's fees.

13.2 Injunctive Relief. The Conservancy may bring action at law or in equity, *ex parte* as necessary, in a court of competent jurisdiction, to enforce the terms of the Easement and to enjoin by temporary or permanent injunction a violation, including to require or cause the restoration of the Easement Area to the condition that existed prior to the violation, under the following circumstances:

13.2.A If Grantor, after receipt of a notice of violation from the Conservancy, fails immediately to discontinue any activity that could increase or expand alleged violation; or

13.2.B If Grantor, after receipt of a notice of violation from the Conservancy, fails within ten (10) days either to provide a written explanation to the Conservancy of the reason why the alleged violation should be permitted, or began restoring the Easement Area as best as possible to its condition prior to the violation; or

13.2.C If Grantor, after commencing to restore the Easement Area to its condition prior to a violation, fails to diligently cure the violation.

13.3 *Damages.* The Conservancy shall be entitled to recover damages for violations of the terms of this Easement or injury to the Conservation Values, including, without limitation, damages for the loss of scenic, aesthetic, or environmental purposes. Without limiting Grantor's liability therefore, the Conservancy, in its sole discretion, may apply damages recovered to the cost of undertaking any corrective action on the Easement Area.

13.4 *Emergency Enforcement.* If the Conservancy reasonably believes an ongoing or threatened imminent activity violates the Easement, the Conservancy may, in its sole discretion, take immediate legal action as set forth on this Section 13 without prior notice to Grantor and without waiting for the period provided for cure to expire.

13.5 *Scope of Relief.* The Conservancy's rights under this Section 13 apply equally in the event actual or threatened violations of the terms of this Easement. Grantor agrees that the Conservancy's remedies at law for any violation of the terms of this Easement are inadequate and that the Conservancy shall be entitled to the injunctive relief described in Subsection 13.2, both prohibitive and mandatory, in addition to such other relief to which the Conservancy may be entitled, including specific performance of the terms of the Easement. The Conservancy's remedies described in this Section 13 shall be cumulative and shall be in addition to all remedies now and hereafter existing at law or in equity.

13.6 *Cost of Enforcement.* All reasonable costs incurred by the Conservancy in enforcing the terms of this Easement against Grantor including, without limitation, costs and expenses of suit and reasonable attorney's fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action each Party shall bear its own costs.

13.7 *The Conservancy's Discretion.* Enforcement of the terms of this Easement shall be at the sole discretion of the Conservancy, and any forbearance by the Conservancy to exercise its rights under the Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by the Conservancy of such term or subsequent breach of the same or any other term of this Easement or of any of the Conservancy's rights under this Easement. No delay or omission by the Conservancy in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

13.8 *Acts Beyond Grantor's Control.* Nothing contained in this Easement shall be construed to entitle the Conservancy to bring any action against Grantor for any injury to or change in the Easement Area resulting from causes beyond Grantor's control including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area or person(s) resulting from such causes. Grantor is not responsible for acts of third parties who are out of Grantor's control, except that Grantor is responsible for guests and other third parties authorized by Grantor to access the Easement Area.

14. Costs, Liabilities, Taxes and Environmental Compliance.

14.1. *Costs, Legal Requirements and Liabilities.* Grantor retains 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 adequate insurance coverage, which may be under Grantor's homeowner's policy. On reasonable request, Grantor will furnish certificate of insurance or copy of insurance policy. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

14.2 *Taxes.* Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this easement, and shall furnish Conservancy with satisfactory evidence of payment upon request.

14.3 *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Easement Area 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, soil, or in any way harmful or threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including cleanup that may be required, unless the release was caused by the Conservancy, in which the Conservancy shall be responsible therefore.

14.4 *Control.* Nothing in this Grant shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Conservancy to exercise physical or managerial control over the day-to-day operations of the Easement Area, or any of Grantor's activities on the Easement Area, or otherwise to become an operator with respect to the Easement Area within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), and any Alabama state law counterpart.

14.5 *Hold Harmless.* "Grantor in possession" shall hold harmless, indemnify, and defend Conservancy and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, cause of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any Easement Area, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any federal, state, or local law, regulation, requirement, including, without limitation, the CERCLA, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Easement Area; (3) the presence or release of hazardous or toxic substances in, on, from, under or about the Easement Area at any time, 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, unless solely caused by any of the Indemnified Parties; (4) tax benefits or consequences of any kind which result or do not result from entering into this Easement; and (5) the obligations, covenants, representations and warranties of paragraphs 13.1 through 13.8.

* "Grantor in possession" as used in this paragraph means the Grantor holding title to the Easement Area at the time the claim for defense or indemnity or to be held harmless is made.

15. Extinguishment and Condemnation.

15.1 Extinguishment. If circumstances arise in the future such as render the purpose 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, and the amount of the proceeds to which Conservancy shall be entitled, after the satisfaction or prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment (herein collectively "Extinguishment") shall be determined to be at least equal to the perpetual conservation restriction's proportionate value unless otherwise provided by Alabama law at the time, in accordance with Subsection 15.2 below. Conservancy shall use all such proceeds in a manner consistent with the Conservation Values of this grant.

15.2 Proceeds. This Easement constitutes a real property interest immediately vested in Conservancy. For the purposes of this Subsection, the parties stipulate that this Easement shall have at the time of Extinguishment a fair market value determined by multiplying the then fair market value of the Easement Area unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Easement Area, without deduction for the value of the Easement, at the time of this grant. The Conservation Values at the time of this grant shall be those Conservation Values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Code. Grantor shall within ninety days of this grant provide to the Conservancy copies of all appraisals seeking to establish the Conservation Values at the time of this grant. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Easement Area unencumbered by the Easement shall remain constant.

15.3 Condemnation. If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, the Conservancy shall be entitled to compensation from the condemning authority in accordance with applicable law.

15.4 Application of Proceeds. The Conservancy shall use any proceeds received under the circumstances described in this Section 15 in a manner consistent with its conservation Values, which are exemplified by this grant.

16. Assignment. This Easement is transferable, but the Conservancy may assign its rights and obligations under this Easement only to a Qualified Conservation Organization that is deemed to be so qualified at the time of transfer under Section 170(h) of the Code. As a condition of such transfer, the Conservancy shall require that the Conservation Purposes for which the grant was

originally intended to be maintained. The Conservancy shall provide Grantor at least sixty (60) days advance notice of any assignments, so that Grantor can determine whether the proposed assignee satisfies the criteria of this paragraph. Grantor's consent to assignment is necessary to make it effective, and the Conservancy shall not assign its rights hereunder without Grantor's prior written consent.

17. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Easement Area, including, without limitation, a leasehold interest. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

18. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other regarding the specifics of the Easement shall be in writing and either served personally or sent by first class mail, electronic correspondence (email), postage prepaid, addressed as follows:

To Grantor: AFK Land, LLC
 c/o David Keith
 120 Bishop Circle
 Pelham, Alabama 35124

To Conservancy: Atlantic Coast Conservancy, Inc.
 Attn: Dr. Robert Keller, President
 634 South Main Street
 Jasper, Georgia 30143

With a copy to: Phil M. Landrum, III
 Landrum & Landrum Attorneys
 95 Stegall Drive
 Jasper, Georgia 30143

or to such other address as either party from time to time shall designate by written notice to the other.

19. Recordation. Conservancy shall record this instrument in timely fashion in the official records of Shelby County, Alabama and may re-record it at any time as may be required to preserve its rights in this Easement. Grantor will pay any recordation charges.

20. Amendment. If circumstances arise under which an amendment to this Easement would be appropriate to promote the Purposes of the Easement, Grantor and the Conservancy may jointly amend this Easement, in accordance with the Policies of the Conservancy. However, the Conservancy is under no obligation to amend this Easement, and may decline to amend this Easement in its sole and exclusive judgment. No amendment shall be allowed that will affect the qualifications of the Easement under applicable law. Any amendment must be consistent with the Purposes of the Easement and the aggregate Conservation Values and may not affect the

Easement's perpetual duration. Any amendment must be in writing, signed by both Parties, and recorded in the official records of Shelby County, Alabama.

21. Subordination. If at the time of conveyance of this Easement, the Easement Area is subject to a Deed to Secure Debt, the holder of which has agreed by separate instrument, a copy of which is attached hereto as **Exhibit "C"** to subordinate its rights in the Easement Area to the extent necessary to permit the Conservancy to enforce the Purposes of this Easement in perpetuity and to prevent any modification or extinguishment of this Easement by exercise of any rights of the Deed to Secure Debt.

22. Future Technology. No use shall be made of the Easement Area, and no activity thereon shall be permitted that is, or is likely, to become inconsistent with the Purposes of this Easement. Grantor and the Conservancy acknowledge that, in view of the perpetual nature of this Easement and the predicted climate changes due to global warming, they are unable to foresee all potential land uses, future technologies, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. The Conservancy therefore, in its reasonable discretion in accord with then current scientific research and findings disseminated by the Intergovernmental Panel on Climate Change (IPCC) or its equivalent, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in the Easement, or (b) alterations in existing uses or structures, are consistent with the Purposes of this Easement.**3. General Provisions.**

23.1 The following Exhibits are attached to and incorporated by reference into this Easement. Exhibit A: Property Legal Description, Exhibit B: Easement Area Legal Description, Exhibit C: Subordination Document.

23.2 *Definitions.* The terms "Grantor" and "Conservancy," wherever used herein, and any pronouns used in place of those terms, shall be deemed to include, respectively, Grantor and its heirs, personal representatives, executors, administrators, successors and assigns, and the Conservancy, its successors and assigns.

23.3 *Controlling Law.* The interpretation and performance of this Easement shall be governed by the laws of the State of Alabama.

23.4 *Liberal Construction.* Any general rule of construction to the contrary notwithstanding, this Easement shall be reasonably construed in favor of the grant to affect the Purpose of this Easement and the policy and purpose of Alabama law. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

23.5 *Severability.* If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

23.6 *Entire Agreement*. This instrument sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

23.7 *No Forfeiture*. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

23.8 *Joint Obligation*. The obligation imposed by this Easement upon Grantor shall be joint and several (in the event that there is more than one Grantor).

23.9 *Successors*. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Easement Area.

23.10 *Termination of Rights and Obligations*. Except as otherwise provided herein, a party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Easement Area, except that liability for acts or omissions occurring prior to transfer shall survive transfer.


23.11 *Captions*. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretations.

23.12 *Counterparts*. The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

23.13 *Merger*. Unless the Parties expressly state that they intend a merger of estates or interests to occur, no merger shall be deemed to have occurred hereunder or under any document executed in the future affecting this grant.

23.14 *Executory Limitation*. If the Conservancy dissolves, ceases to exist, is unable or unwilling to carry out its responsibilities under this Easement, or no longer qualifies under Section 170(h) of the Code, or to be authorized to acquire and hold conservation easements under Alabama law, then Conservancy shall have the right to transfer the conservation easement created by this Easement, and the right and obligations hereunder, to any public agency or private nonprofit organization that, at the time of transfer, is a "qualified organization" under Section 170(h) of the Code, but only if the agency or organization expressly agrees to assume the responsibility imposed on the Conservancy by this Easement. If Conservancy ever dissolves, ceases to exist, is unable or unwilling to carry out its responsibilities under this Easement, or no longer qualifies under Section 170(h) of the Code and a transfer has not been made pursuant to the foregoing sentence, then the rights and obligations under this Easement shall vest in such organization as a court of competent jurisdiction shall direct pursuant to applicable Alabama state law and consistent with the requirements for an assignment pursuant to Section 16.

24. Legal, Tax and Other Advice. Grantor represents that it has consulted Grantor's attorney, accountant, and other appropriate experts for advice relating to this Easement and any potential tax benefits that may inure the Grantor in connection with this Easement. Grantor warrants, represents and agrees that the Conservancy has made no warranty or representation relating to 1) the value of the Easement Area or the methodology or techniques used or useful in ascertaining or appraising the value of the Easement Area (either before or after the granting of this Conservation Easement), 2) any entitlement to tax benefits by Grantor or the amount of any such benefits, or 3) whether the conveyance by Grantor of this Easement constitutes a 'qualified conservation contribution' such as defined in Section 170(h) of the Code.


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

IN WITNESS WHEREOF Grantor and the Conservancy have executed this Easement as of the date first written above.




AFK Land, LLC
By its Managing Member,
David Keith

Grantor

**STATE OF GEORGIA
COUNTY OF FULTON**

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that David Keith, is signed to the foregoing conveyance and who is known to me, acknowledged before me that, being informed of the contents of the conveyance, he, as such Sole Member and with full authority, executed the same voluntary for and as the act of said limited liability company on the day the same bears date.


Given under my hand and official seal this ^{28th Dec} 28th day of December, 2012.



Notary Public

My Commission expires: 8/23/2016

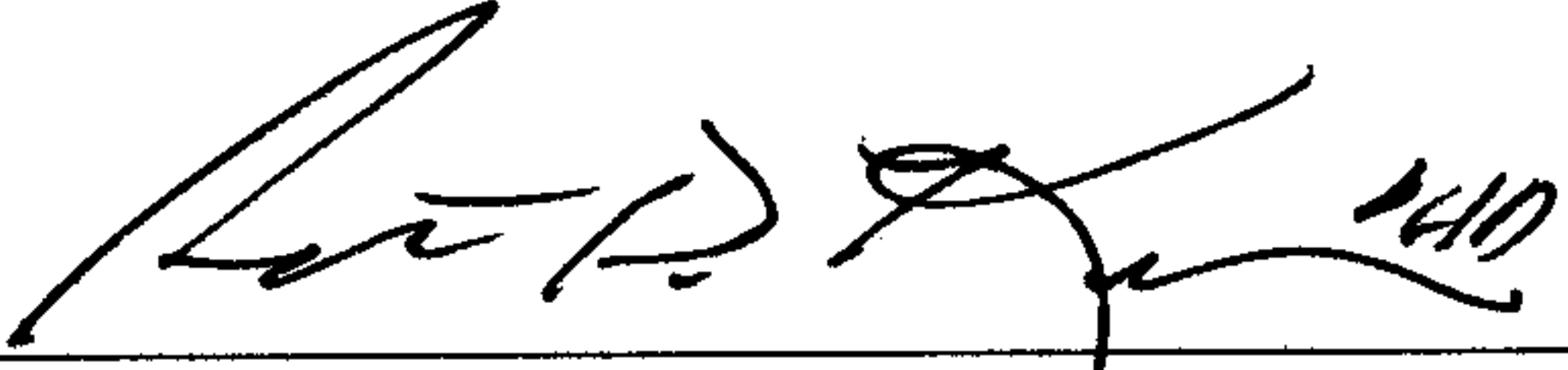
[AFFIX NOTARIAL SEAL & STAMP]


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**R. Patel
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires
August 23, 2016**

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

IN WITNESS WHEREOF Grantor and the Conservancy have executed the Deed of Conservation Easement as of the date first written above.




Pelican Coast Conservancy, LLC
By: Atlantic Coast Conservancy, Inc.
Its Manager and Sole Member
Robert D. Keller, Ph.D
By its President

Conservancy

**STATE OF GEORGIA
COUNTY OF FULTON**

I, the undersigned authority, a Notary Public in and for said County and State, hereby certify that Robert D. Keller, PHD, whose name as President of the Atlantic Coast Conservancy, Inc., is signed to the foregoing conveyance and who are known to me, acknowledged before me that, being informed of the contents of the conveyance, he, as officer and with full authority, executed the same voluntary for and as the act of said limited liability company on the day the same bears date.

Given under my hand and official seal this ^{28th day} 28th day of December, 2012.



Notary Public

My Commission expires: 8/23/2016

[AFFIX NOTARIAL SEAL & STAMP]

R. Patel
NOTARY PUBLIC
Cobb County, GEORGIA
My Commission Expires
August 23, 2016



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Exhibit "A" Legal Description for AFK LAND, LLC

A parcel of land situated in Section 19, Township 22 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a Railroad Rail at the NE corner of Section 19, Township 22 South, Range 2 West, Shelby County, Alabama; thence N 87°32'49" W along the north line of said section a distance of 1329.12 feet to a 1" crimp pipe at the NE corner of the NW ¼ of the NE ¼ of said Section 19, said point also being the POINT OF BEGINNING; thence N 87°37'35" W along the north line of said 1/4-1/4 section for a distance of 1329.91 feet to a 3" capped pipe at the NW corner of said 1/4-1/4 section; thence S 0°17'59" W along the west line of said 1/4-1/4 section a distance of 1327.76 feet to a 3" capped pipe at the SW corner of said 1/4-1/4 section; thence N 87°44'31" W a distance of 106.76 feet to a rebar capped F&W; thence S 22°02'57" W a distance of 2575.22 feet to a rebar capped F&W; thence S 74°13'43" E a distance of 397.35 feet to a rebar capped F&W; thence S 74°17'16" E a distance of 35.88 feet to the rebar capped EDG on the northwesterly line of a proposed right-of-way for the City of Calera; thence N 29°25'31" E along said right-of-way a distance of 845.54 feet to a rebar capped EDG; thence N 47°33'03" E along said right-of-way a distance of 826.76 feet to a rebar capped EDG; thence N 72°52'52" E along said right-of-way a distance of 525.05 feet to a rebar capped EDG; thence N 27°52'52" E along said right-of-way a distance of 35.36 feet to a rebar capped EDG; thence N 72°52'52" E along said right-of-way a distance of 410.80 feet to a rebar capped EDG; thence S 62°07'08" E along said right-of-way a distance of 35.36 to a rebar capped EDG; thence N 72°52'52" E along said right-of-way a distance of 612.39 feet to a rebar capped EDG; thence N 44°56'08" E along said right-of-way a distance of 466.79 feet to a rebar capped EDG; thence N 16°38'54" E along said right-of-way a distance of 328.04 feet to a rebar capped EDG; thence N 87°42'34" W and leaving said right-of-way a distance of 491.56 feet to a ½" rebar; thence N 0°10'28" W a distance of 661.18 feet to a rock pile; thence N 87°23'42" W a distance of 497.31 feet to a 5/8" rebar; thence N 0°08'14" E a distance of 659.96 feet to the POINT OF BEGINNING. Said parcel of land contains 122.42 acres, more or less.



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Shelby Cnty Judge of Probate, AL
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Exhibit "B" Legal Description for AFK LAND, LLC


A parcel of land situated in Section 19, Township 22 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a Railroad Rail at the NE corner of Section 19, Township 22 South, Range 2 West, Shelby County, Alabama; thence N 87°32'49" W along the north line of said section a distance of 1329.12 feet to a 1" crimp pipe at the NE corner of the NW ¼ of the NE ¼ of said Section 19; thence S 0°08'14" W a distance of 659.96 feet to a 5/8" rebar, said point being the POINT OF BEGINNING; thence S 28°28'31" W a distance of 587.41 feet to a point; thence N 58°31'48" W a distance of 333.48 feet to a point; thence N 18°29'38" E a distance of 572.62 feet to a point; thence S 62°19'28" E a distance of 432.32 feet to the POINT OF BEGINNING. Said parcel of land contains 5.05 acres, more or less.

TOGETHER WITH AND SUBJECT TO

A 30' ingress, egress, and utility easement situated in Section 19, Township 22 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a Railroad Rail at the NE corner of Section 19, Township 22 South, Range 2 West, Shelby County, Alabama; thence N 87°32'49" W along the north line of said section a distance of 1329.12 feet to a 1" crimp pipe at the NE corner of the NW ¼ of the NE ¼ of said Section 19; thence S 0°08'14" W a distance of 659.96 feet to a 5/8" rebar; thence S 28°28'31" W a distance of 452.53 feet to the POINT OF BEGINNING of the centerline of a 30' ingress, egress, and utility easement lying 15' to either side of and parallel to the following described centerline; thence N 86°38'24" E along said centerline a distance of 324.63 feet to a point; thence S 44°33'59" E along said centerline a distance of 89.10 feet to a point; thence S 2°52'46" W along said centerline a distance of 240.70 feet to a point; thence S 16°23'44" W along said centerline a distance of 168.18 feet to a point; thence S 43°13'19" E a distance of 137.19 feet to a point; thence S 86°19'34" E along said centerline a distance of 348.13 feet to a point; thence N 58°12'54" E along said centerline a distance of 318.84 feet to a point; thence N 67°32'28" E along said centerline a distance of 165.33 feet to a point on the northwesterly line of a proposed right-of-way for the City of Calera and the end of said centerline


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State of Alabama
Deed Tax: \$.50