Healthy Forests Reserve Program
Conservation Easement

This Conservation Easement Deed ("Deed"), made this _____ day of _____, 20_____, between _____, and its successors, heirs, and assigns, ("Grantor") and the **UNITED STATES OF AMERICA**, and its assigns, ("Grantee" or "United States"). Grantor and the United States are jointly referred to as the "Parties." The administering agency of the United States is the Natural Resources Conservation Service ("NRCS") of the United States Department of Agriculture. The Conservation Easement Deed contract number is _____.

I. Recitals and Conservation Purposes

A. Grantor owns the property (Property) located in _____ (County) of _____ (State) and legally described in Exhibit A attached hereto and made part of this Deed.

B. The threatened and/or endangered species, candidate species, or species the Grantee determines are of special concern (individually or collectively, the "Species of Concern"); the forest, wildlife and aquatic habitats; and other natural characteristics of the Property (referred to herein as "Conservation Values") as well as its state of improvement, are described in a Baseline Inventory Report ("Report") prepared by Grantee with the cooperation of Grantor and attached hereto at Exhibit B. The Report describes the condition of the Property as of the date of this Deed. The Report may be used by Grantee to assure that any future changes in the use of the Property are consistent with the terms of this Deed. However, the Report is not intended to preclude the use of other evidence by Grantee to establish the condition of the Property at the time this Deed is executed.

C. Grantor intends that all forestry operations and activities on the Property will be conducted in a manner that will conserve and enhance the Conservation Values of the Property to help promote the recovery of the Species of Concern, to improve biodiversity, and to enhance carbon sequestration. To effectuate this conservation purpose, Grantor intends to convey to Grantee the right to conserve, restore and enhance the Conservation Values of the Property.

D. Acquisition of this Deed is authorized by the Healthy Forest Reserve Program (HFRP) authorized by Title V of the Healthy Forest Restoration Act of 2003, 16 U.S.C. §§ 6571-6578. The purpose of HFRP is to promote the recovery of threatened or endangered species, to improve biodiversity and to enhance carbon sequestration in forest ecosystems. The rights in the Property are being acquired by the United States to carry-out the purposes of HFRP.

E. To effectuate the intent of the Parties to carry-out the purposes of HFRP by placing a conservation easement on this Property, a Healthy Forest Reserve Program Restoration Plan ("Restoration Plan") has been developed by the Grantor and NRCS (and in consultation with the Secretary of the Interior). The Restoration Plan, in conjunction with the terms of this Deed govern the conservation, restoration, maintenance, enhancement and management of the habitat conditions on the Property.

NOW THEREFORE, in consideration of the sum of _____ Dollars($_____), Grantor hereby grants and conveys with general warranty of title, to the United States and its assigns an easement in the Property, including development rights and access to the Property, as defined herein. It is the intent of Grantor to convey and relinquish all development rights to Grantee for the purpose of protecting the conservation values identified herein. This Deed shall constitute a servitude upon the Property so encumbered, shall run with the land and shall bind Grantor, its heirs, successors, assigns, lessees, and any other person claiming under them.

Subject, however, to any valid rights of record.

The term of this Deed is_____years, expiring on _____ .

II. Purposes

It is the purpose of this Deed to conserve, restore, and enhance the Conservation Values of the Property to help the recovery, restoration, enhancement, maintenance and management of habitats for wildlife and aquatic populations that are Species of Concern; improve biodiversity; increase carbon sequestration; and to conserve, restore, and enhance other natural resources associated with sustaining healthy forests ecosystems

III. Permitted, Prohibited, Restricted and Reserved Activities

A. Effect of the Healthy Forest Reserve Program Restoration Plan. To the extent that there are any conflicts between the Restoration Plan and this Deed, the terms of the Restoration Plan control when compliance with such terms are necessary for the Grantor to maintain Landowner Protections. Landowner Protections is defined as protections and assurances made available by NRCS to HFRP participants when requested and whose voluntary conservation activities result in a net conservation benefit for listed, candidate, or other species, and meet other requirements of the program. These Landowner Protections are subject to a HFRP restoration plan and associated cost share agreement or easement being properly implemented. Landowner Protections made available by the Secretary of Agriculture to HFRP participants may be provided through an incidental take authorization received by NRCS from Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) or by a Safe Harbor Agreement directly between the HFRP participant and FWS or NMFS, as appropriate.

B. Prohibited Acts. Grantor shall not perform, nor knowingly allow others to perform, any act, including those prohibited or restricted herein that is inconsistent with the purposes of this Deed or the Restoration Plan.

C. Rights Retained by Grantor. Grantor retains the right to perform any act not specifically prohibited or restricted by this Deed and which is not inconsistent with the purposes of this Deed. These ownership rights include, but are not limited to, the retention of the economic viability of the Property provided that such acts and uses are not inconsistent with the purposes of this Deed.

D. Forestland Uses of the Property. Grantor is permitted to conduct routine forestry operations, management practices, and timber harvesting, as long as such activities are consistent with the terms of this Deed and carried out in accordance with the terms of the Restoration Plan and the Timber Harvesting Plan.

E. Other Uses. Other commercial and industrial uses of the Property not specifically permitted herein, are prohibited, including the establishment of tree or shrub nurseries, commercially fruit or nut producing trees (i.e., apple orchards or pecan groves), vineyards, aquaculture ponds, non-native trees, Christmas trees or vegetation, pastureland, cropland, or any other non-forest use unless it is approved in advance and in writing by the Grantee and is carried out consistent with the Restoration Plan.

F. Quiet Enjoyment. Grantor reserves for itself and its invitees the right of quiet use and enjoyment and the right to convey or lease the Property (in whole or in part) and restrict public access.

G. Incidental Lands. Grantee may determine that the enrollment of certain incidental lands (including but not limited to ponds and fields) present on this Property at the time this Deed is executed may be necessary to facilitate the administration of the Deed boundary. The Grantor may utilize and maintain such incidental lands in a manner that is compatible with the purposes of this Deed or as set forth in the Restoration Plan.

H. Topography. Altering the existing topography of the Property by digging, plowing, disking, or otherwise disturbing the surface is prohibited, unless Grantee determines such requested action will be carried out consistent with the Restoration Plan and will be carried out in a manner that protects the conservation values. Grantor shall obtain Grantee's written permission in advance of commencing such action.

I. Waste. Dumping, collecting, recycling, accumulating, or storing of trash, refuse, waste, sewage, or other debris is prohibited, except composting of plant material that is produced on the Property is permissible as long as such composting is carried out consistent with the Restoration Plan.

J. Mining. The surface exploration, development, mining, or extraction of soil, sand, gravel, mineral, oil, gas, or other substance from the surface of the Property is prohibited. Subsurface extraction of gas, oil, and/or minerals beneath the surface of the Property may be conducted by off-site methods (such as slant drilling) that do not impact the surface of the Property. Any extraction permitted pursuant to this paragraph shall be conducted in compliance with Federal, State and local regulations and permits. Grantor shall notify the Grantee of any planned subsurface extraction of oil, gas and/or minerals beneath the surface of the Property at least 60 days before commencement of any extraction.

K. Construction of Buildings, Logging Facilities or Other Structures. Construction of new or existing buildings or structures is prohibited; except that the repair, maintenance, or replacement of existing buildings, timber harvesting-related facilities, or other existing structures, as identified in the Report, necessary to conduct common forestry operations, management practices, and timber harvesting on the Property, are permitted at the same location and within the existing footprint of such structures. Construction of new buildings, timber harvesting facilities, or other structures necessary to conduct common forestry-related activities on the Property may be permitted on the Property with the Grantee's advance written consent. Such consent may be given if the Grantee determines that such activities are consistent with the purpose of the Deed and HFRP.

L. Fences. Existing fences may be repaired or replaced and new fences may be built on the Property for the purposes of excluding or managing wildlife or livestock in a manner that is customary in the region where the Property is located and consistent with the purposes of this Deed.

M. Roads and Impervious Surfaces. Existing roads may be maintained and repaired in their current condition and within their existing footprint as identified in the Report. Maintenance and repair of existing roads shall not be construed to permit the paving of any existing road not already paved or otherwise covered in an impervious material as of the date of this Deed. New roads necessary to conduct forestry operations, management practices, and timber harvesting, as permitted herein on the Property, may be constructed with prior written approval of Grantee and subject to terms and conditions Grantee determines are necessary to maintain the viability of the forestland resources and other Conservation Values. New roads shall not be paved or otherwise covered in an impervious material.

N. Recreational Uses. Undeveloped recreational uses, such as hiking, camping, bird watching, hunting, and fishing are permitted as long as such uses do not impair the forestland resources, wildlife and aquatic habitats, and the other Conservation Values.

O. Vehicle Use. The use of motorized vehicles is prohibited, except as necessary to carry out permitted forestry operations on the Property and as necessary to fulfill the purpose of this Deed. In addition, motorized vehicles for limited deminimus, non-commercial recreational use such as hunting or bird watching is permitted.

P. Development Rights. The Property shall not be developed except as expressly permitted by this Deed. Subject to valid existing rights of record and those rights specifically reserved to the Grantor, all development rights associated with the Property are vested in Grantee. The Parties agree that these development rights are terminated and extinguished and may not be used on or transferred off of the Property to any other property or otherwise used.

Q. Signs. Except for no trespassing signs, for sale signs, and signs identifying the owner of the Property, all other signs, advertisements, and billboards of any nature are prohibited. The permitted signs may not exceed 15 square feet in size. The Parties agree that the United States has the right to erect and maintain signs on the Property for the purpose of identifying this Deed.

R. Exotic Species. The introduction, cultivation, or use of exotic plant or animal species is prohibited on the Property without prior written approval of Grantee, any such approval shall be conditioned upon compliance by the Grantor of any terms and conditions Grantee determines are necessary to ensure the protection of the conservation values of the Property and any applicable terms of the Restoration Plan.

S. Subdivision. The Property may be subdivided with prior written approval by Grantee. Grantee may approve such subdivision if the subdivided parcels are to be owned by Grantor or Grantor's lineal ancestor or descendant or if it is for the purpose of conveying a portion of the Property to an adjacent landowner whose lands are also subject to an easement under HFRP and if Grantee determines, in its sole discretion, that the proposed subdivision does not adversely impact the purpose of this Deed. The terms of this Deed shall apply to any subdivided parcels.

T. Utilities. The installation or relocation of new public or private utilities, including electric, telephone, or other communications services over the Property, is prohibited. Existing utilities on the Property may be maintained, repaired, removed, or replaced at their current location as identified in the Report. The installation, repair, and maintenance of underground utilities such as electric, gas, water, sewer lines, or other utilities may be permitted on the Property if Grantee determines that such activities are consistent with protecting and maintaining the Conservation Values referenced in this Deed. Grantor must obtain from the Grantee prior written approval for

such activity, which may be subject to terms and conditions Grantee determines are necessary to ensure the viability of the Conservation Values. The construction of wind and solar energy generation facilities are prohibited, except when their primary use is necessary for conducting forestry operations on the Property, such as providing energy for irrigation or logging operations, and the Grantee provides Grantor, in advance and in writing, approval subject to terms and conditions Grantee determines to ensure the protection of these Conservation Values.

U. Water Rights. Grantor shall retain the right to use the water rights described in Exhibit C for the present and future use on the Property, as well as all wells, ditches, canals, head gates, springs, reservoirs, water allotments, and water rights of ways associated with the Property and identified in the Report. With the prior written approval of Grantee, Grantor may transfer, lease, sell, or otherwise separate a portion of those water rights from the Property that the Grantee determines are not necessary to ensure the function of forestry operations and the protection of the forestland resources, wildlife and aquatic habitats, and other Conservation Values.

V. Restoration. In furthering the conservation purposes of this Deed, Grantor may restore forestland resources, wildlife and aquatic habitats, and other conservation values on the Property if approved in advance and in writing by Grantee. In addition, Grantee shall have the right to enter the Property to undertake, at its own expense or on a cost-share basis with Grantor or other entity, activities to restore, protect, manage, maintain, enhance, and monitor the forestland resources, wildlife and aquatic habitats, and other Conservation Values.

IV. Affirmative Duties: Planning Requirements

A. Healthy Forests Reserve Program Restoration Plan. The Parties agree that good resource management and land stewardship is important for present and future generations, for the protection and enhancement of forestland resources, wildlife and aquatic habitats, and other Conservation Values on the Property. The Grantor agrees to implement a Restoration Plan on the Property which is developed and approved by the Grantor and NRCS and describes the practices, measures, and other conditions necessary for restoring and maintaining the viability of forestland resources, wildlife and aquatic habitats, and other Conservation Values. Subsequent to recording of this Deed, the Restoration Plan may be revised if necessary, as determined and concurred upon by NRCS and the Grantor, to reflect any changes in the management and use of the Property that affect the viability of the forestland resources, wildlife and aquatic habitats, or other conservation values referenced in this Deed. The terms of the Restoration Plan shall be consistent with the conservation purposes of this Deed. An executed copy of the Restoration Plan is maintained in the files of the Grantee. Grantor agrees to carry out all permitted activities consistent with the terms of the Restoration Plan.

B. Timber Harvesting. Timber harvesting is permitted only to the extent and form permitted in the Restoration Plan. Any timber harvesting shall be conducted in accordance with a Timber Harvesting Plan approved in advance and in writing by the Grantee. The Timber Harvesting Plan must be prepared by NRCS or its representative; a licensed, professional forester; or an entity approved by NRCS. All timber harvesting and reforestation activities, approved by the Grantee in advance and identified in a Timber Harvesting Plan, will not impair the wildlife and aquatic habitats, and other Conservation Values referenced in this Deed. A copy of this plan shall be provided to and approved by Grantee at least one month prior to any timber harvest.

C. Pest and Weed Control. Grantor is responsible for control of noxious weeds and pests according to Federal and State law.

V. Enforcement

A. Enforcement.

1. Grantee has the right to prevent, correct, or require correction of violations of the terms of this Deed. Upon notification to the Grantor, Grantee or Grantee's agents may enter the Property to inspect for violations, including, but not limited to, assessing compliance with the Restoration and/or Timber Harvesting Plan or other plan described above. However, notification by Grantee prior to entry is not required when the Grantee believes there may be a violation of the terms of this Deed. If Grantee finds a violation, Grantee may at its discretion take appropriate legal action in law or equity. Upon discovery of a violation, Grantee shall notify Grantor in writing of the violation. Except when an ongoing or imminent violation could, as determined by Grantee, seriously impair the Conservation Values of the Property, Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing any legal action.

2. If Grantor fails to cure the violation within 30 days after receipt of a notice of violation, Grantee may bring an action in law or equity in court to enforce the terms of this Deed, to enjoin the violation, and to require restoration of the Property to the condition that existed prior to any such injury. Where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in halting and correcting the violation, including but not limited to reasonable attorneys' fees.

3. Any delay by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor shall not be deemed a waiver by Grantee of such rights with respect to that violation. Moreover, any failure by Grantee to discover a violation of this Deed, or forbearance by Grantee in exercising its rights under this Deed in the event of any violation of its terms by Grantor, shall not be deemed a waiver by Grantee of such rights with respect to any subsequent violation.

VI. General Terms

A. Access. No public right to access is conveyed by this Deed. Grantor maintains the right and obligation to prevent trespass and to control access by the public pursuant to Federal and State law, provided that Grantee has the right of ingress and egress to the Property over Grantor's property, whether or not Grantor's property is adjacent to or appurtenant to the Property, for the exercise of Grantee's rights under this Deed. The authorized representatives of Grantee may utilize vehicles and other reasonable modes of transportation for access purposes.

B. Responsibilities of Grantor and Grantee Not Affected. Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way affect any existing obligations of Grantor as the owner of the Property. For example:

1. **Taxes**. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property.

2. **Upkeep and Maintenance**. Grantor shall continue to be solely responsible for the upkeep and maintenance of the Property.

C. Rights Acquired. The property rights of the United States acquired under this Deed shall be unaffected by any subsequent amendments to or repeal of the Healthy Forest Reserve Program. If Grantor receives consideration for this Deed in installments, the Parties agree that the conveyance of this Deed shall be effective upon payment of the first installment.

D. Subsequent Conveyances. Grantor agrees to notify Grantee in writing of the names and addresses of any party to whom the Property is to be transferred at or prior to the time the transfer is consummated. Grantor and its successors and assigns shall specifically refer to this Deed in any subsequent lease, deed, or other instrument by which any interest in the Property is conveyed.

E. Subsequent Liens. No provisions of this Deed should be construed as impairing the ability of Grantor to use this Property as collateral for a loan, provided that any mortgage or lien associated with the loan is subject to or subordinated to this Deed.

F. Severability. If any provision of this Deed is found to be invalid, the remainder of its provisions shall remain in force.

G. Rules of Construction. This Deed shall be interpreted under the laws of the United States. Any ambiguities in this Deed and questions as to the validity of any of its specific provisions shall be resolved in favor of Grantee so as to preserve the Conservation Values of the Property and to give maximum effect to the purposes of this Deed.

H. Environmental Warranty. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Grantor warrants that, to the best of Grantor's knowledge, it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to indemnify and hold harmless Grantee against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath, or from the Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Property or any restoration activities carried out by Grantee at the Property; provided, however, that Grantee shall be responsible for any Hazardous Material contributed after this date to the Property by Grantee.

I. General Indemnification. Grantor shall indemnify and hold harmless Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses,

damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Property, which may arise from, but is not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

J. Notices. Any notices required by this Deed shall be in writing and personally delivered or sent by certified mail, return receipt requested, to Grantor and Grantee.

K. No Merger. If Grantee at some future time acquires the underlying fee title in the Property, the interest conveyed by this Deed will not merge with fee title but will continue to exist and be managed as a separate estate.

L. Acceptance. The signature below of Grantee's authorized representative constitutes acceptance of the rights and responsibilities conveyed by this Deed to the United States.

M. Captions. The captions used in this Deed have been inserted solely for convenience of reference. They are not part of this Deed and shall have no effect upon its interpretation.

N. Rights and Obligations. All provisions of this Deed apply to Grantor or Grantee and their respective agents, heirs, executors, administrators, assigns, and any other successors.

TO HAVE AND TO HOLD, this Conservation Easement Deed is granted to the United States of America and assigns. Grantor covenants that it is vested with good title to the Property and shall warrant and defend the same on behalf of the United States against all claims and demands. Grantor covenants to comply with the terms and conditions enumerated in this Deed governing use of the Property, and adjacent lands owned by the Grantor used for access to the Property, and to refrain from any activity that is restricted, prohibited, or inconsistent with the purposes of this Conservation Easement Deed.

Dated this _____ day of _____, 20____.

Landowner(s) _____

_____

STATE OF _____

COUNTY OF _____

Acknowledgment

In the State or Commonwealth of _____, County, Borough or Parish of _____, on this _____ day of _____, 20___, before me, the undersigned, a Notary Public in and for said jurisdiction, personally appeared _____ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as _____ free act and deed.

IN TESTIMONY WHEREOF, I have hereunto my hand and Notarial Seal subscribed and affixed in said jurisdiction, the day and year above written.

(NOTARIAL SEAL) _____
Notary Public

My Commission Expires: _____

ACCEPTANCE BY GRANTEE:

I _____(name), _____ (title), being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Conservation Easement Deed with respect to the rights and duties of the United States of America, Grantee.

Date: _____ _____
[name]
[title]

Acknowledgment

In the State or Commonwealth of _____, County, Borough or Parish of _____, on this _____ day of _____, 20___, before me, the undersigned, a Notary Public in and for said jurisdiction, personally appeared _____ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as _____ free act and deed.

IN TESTIMONY WHEREOF, I have hereunto my hand and Notarial Seal subscribed and affixed in said jurisdiction, the day and year above written.

(NOTARIAL SEAL) _____
Notary Public

My Commission Expires: _____

ACKNOWLEDGMENT

For an individual:

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____ _____(date) by _____.

_____
Notary Public
My Commission expires:

For a corporation:

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____ (date) by _____ as President of _____, a _____ corporation, on behalf of the corporation.

_____
NOTARY PUBLIC
My Commission expires: _____

For a partnership:

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____ (date) by _____ as Partner of _____, a partnership, on behalf of the partnership.

_____
NOTARY PUBLIC
My commission expires: _____

For NRCS:

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on _____ (date) by _____ in his capacity as _____ (office), Natural Resources Conservation Service, United States Department of Agriculture, on behalf of the United States of America.

_____
NOTARY PUBLIC
My Commission expires: _____

This instrument was drafted by the Natural Resources Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250-1400.

OMB DISCLOSURE STATEMENT

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0013. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (U.S.C. 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal Law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.

NONDISCRIMINATION STATEMENT

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