

STATE OF NORTH CAROLINA PORTION OF PIN: 0801146, 0801147 and 0842346

COUNTY OF MACON

CWMTF No. 2006B-012

**PREPARED BY: Clean Water Management Trust Fund, USDA Office of General Counsel
and The Land Trust for the Little Tennessee, Inc.**

**After Recording Return To:
The Land Trust for the Little Tennessee, Inc.
P. O. Box 1148
Franklin, NC 28744**

DEED OF AGRICULTURAL CONSERVATION EASEMENT

This Deed of Agricultural Conservation Easement ("Conservation Easement") is granted on this _____ day of September, 2008, by Katherine Slagle Tinsley and husband Daniel Lee Tinsley, whose address is 151 Valley Lane, Franklin, North Carolina 28734 (hereinafter "Grantor") to the Land Trust for the Little Tennessee, Inc., a North Carolina nonprofit corporation, having an address of Post Office Box 1148, Franklin, NC 28744 ("Local Grantee") and the United States of America ("**United States**"), by and through the United States Department of Agriculture-Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation. the Local Grantee and the United States are collectively referred to as "Grantees" unless otherwise specified.

The Grantor, Daniel Lee Tinsley, joins in the execution of this instrument solely for the purpose of waiving any and all marital rights he may have in the lands conveyed hereby pursuant to N.C.G.S. §§29-30, 52-10 and 30-1.

The designation Grantor and Grantees as used herein shall include said parties, their heirs, successors and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context. Additionally, for purposes of this agreement, references to the rights, duties and obligations of the Grantor and Grantees apply equally and in full force to any successors to the parties to this agreement.

RECITALS & CONSERVATION PURPOSES

A. Grantor is the sole owner in fee simple of the conservation easement area property (“Property”), legally described in Exhibit A attached hereto, which consists of approximately 56.071 acres located in Cartoogechaye Township, Macon County, North Carolina and more particularly described as Agricultural Zone No. 1 consisting of 10.694 acres, Agricultural Zone No. 2 consisting of 14.805 acres, Agricultural Zone No. 3 consisting of 6.134 acres, Farm Envelope No. 1 consisting of 1.00 acres, Farm Envelope No. 2 consisting of 0.613 acres, and CWMTF – Conservation Easement Area consisting of 22.825 acres on a survey entitled “CONSERVATION EASEMENT FOR THE STATE OF NORTH CAROLINA, Clean Water Management Trust Fund, Purchase of the Conservation Easement Through CWMTF Grant No. 2006B-012, THE LAND TRUST FOR THE LITTLE TENNESSEE, INC. and KATHERINE SLAGLE TINSLEY,” dated 02 May 2008, prepared by Smoky Mountain Land Surveying PA, DWG# 3768 as recorded in Plat Card # _____, Macon County Registry (“Survey”).

B. The consideration paid for this Conservation Easement does not represent fair market value. The Grantor intends to make a charitable contribution of \$49,260.00 to Local Grantee of the difference between the purchase price and the fair market value of this Conservation Easement.

C. The Property consists primarily of productive agricultural land. The majority of the soils on the Property have been classified as “prime” or “statewide importance” soils by NRCS. It is the primary purpose of this Conservation Easement to protect the agricultural soils and agricultural viability and productivity of the Property in perpetuity.

D. The Property lies along Cartoogechaye Creek. The Cartoogechaye Creek corridor is significant from a cultural resources standpoint. Archaeological surveys along Cartoogechaye Creek have identified several archaeological sites in the area of concern and artifactual data that indicates over 8,000 years of human habitation along Cartoogechaye Creek.

E. The Property includes riparian forest buffers along Cartoogechaye Creek and one of its tributaries. Cartoogechaye Creek is a Class WS-III stream and serves as the water source for the Town of Franklin. Cartoogechaye Creek is designated by the North Carolina Wildlife

Resources Commission as “Wild Trout Waters,” and is identified by the North Carolina Natural Heritage Program as being State significant aquatic habitat, has occurrences of two federally-listed aquatic species and two North Carolina species of Special Concern.

F. The Property provides open space and possesses outstanding scenic qualities. The Property provides wildlife habitat for land, air and aquatic species, many of which are important to the Grantor and the people of North Carolina. It is therefore also a purpose of this Conservation Easement to protect these open space and scenic resources and wildlife habitat.

G. The agricultural resources, including the protection of soils, and the cultural, open space, scenic resources, and wildlife habitat of the Property, and the water quality benefits to be preserved by this Conservation Easement, are collectively referred to as the “Conservation Values” of the Property.

H. Grantor, Grantees, the State of North Carolina (“the State”) and North Carolina Clean Water Management Trust Fund (CWMTF) (“the Parties”) acknowledge that the characteristics of the Property and its current use and state of improvements are described in the report prepared by the Local Grantee with the cooperation of the Grantor, and entitled Tinsley Baseline Documentation Report (“Baseline”), which will be maintained on file at the offices of the Local Grantee and the North Carolina Clean Water Management Trust Fund (the “Trust Fund”), and a copy provided to Grantor, and that the Baseline is an appropriate basis for monitoring compliance with the objectives of preserving the conservation and water quality values of the Property. An abbreviated listing of the present conditions and characteristics of the Property, its current use and state of improvements are described in Exhibit B attached hereto and by this reference incorporated herein. Incorporation of this report and Exhibit B are not intended to preclude the use of other evidence (i.e., surveys, appraisals) to establish the present condition of the Property if there is a controversy over their use.

I. Local Grantee is a tax exempt public charity under Section 501(c)3 of the Internal Revenue code, is authorized by the laws of the State of North Carolina to accept, hold and administer conservation easements, possesses the authority to accept and is willing to accept this Conservation Easement under the terms and conditions hereafter described, and is a “qualified organization” and “eligible donee” within the meaning of Section 170(h)(3) of the Internal Revenue code and regulations promulgated thereunder.

J. The Trust Fund is authorized by N.C.G.S. Chapter 113A, Article 18 to finance projects and to acquire land and interests in land, including conservation easements for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses. The Local Grantee has received a grant from the Trust Fund, identified in Grant Agreement No. 2006B-012 (“Grant Agreement”) to establish a riparian forested buffer within the Property as part of the terms of this Conservation Easement, for protection of water quality in Cartoogechaye Creek, and for thus restricting the uses of the Property. The Parties have agreed that the Property shall be conserved and managed in a manner that will protect the quality of the waters of Cartoogechaye and its tributaries thereto, and

otherwise promote the public purposes authorized by NCGS Chapter 113A, Article 18. The Local Grantee will receive and hold this Conservation Easement; provided however, it shall convey to the State acting by and through the Trust Fund a limited assignment of the Conservation Easement (the "Limited Assignment" which is further described in Section 25 hereof).

K. Grantor has also received consideration for this Conservation Easement through funds from the United States of America made available from the Food Security Act of 1985, as amended, authorizing the Farm and Ranch Lands Protection Program, administered through the USDA-NRCS for acquisition of a conservation easement on the Property. The funds are subject to Cooperative Agreement Number 73-4532-6-002 entered into between the United States Commodity Credit Corporation and Local Grantee.

L. The Grantor, Grantees, and Trust Fund intend that the Conservation Values of the Property in their present state will be preserved and maintained to serve those purposes set forth by this Conservation Easement, and consistent with the said Grant Agreement incorporated herein by reference, and available for inspection at the offices of the North Carolina Department of Environment and Natural Resources, Local Grantee, and Trust Fund.

M. The conservation purposes of this Conservation Easement are recognized by, and the grant of this Conservation Easement will serve, the following clearly delineated governmental conservation policies:

(1) The Uniform North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. § 121-34 *et seq.*, which provides for the enforceability of restrictions, easements, covenants or conditions "appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use," N.C.G.S. § 121-35(1); and which provides for tax assessment of lands subject to such agreements "on the basis of the true value of the land and improvement less any reduction in value caused by the agreement," N.C.G.S. § 121-40;

(2) The North Carolina Conservation Tax Credit Program, N.C.G.S. §§ 105-130.34 and 105-151.12 *et seq.*, which provides for state income tax credits for donations of land that are useful for fish and wildlife conservation and other similar land conservation purposes;

(3) Sections 1238 H and 1238 I of the Food Security Act of 1985, as amended, which authorizes the Farm and Ranch Lands Protection Program, administered through NRCS, under which the United States America, through the Secretary of Agriculture provides funds and purchases conservation easements or other interests in prime, unique, or other productive soils for the purpose of limiting conversion to nonagricultural uses of that land;

(4) The establishment of the North Carolina Farmland Preservation Trust Fund established in 1986 (N.C.G.S. § 106-744(c)) to preserve important farmland in North Carolina;

(5) The Clean Water Management Trust Fund, N.C.G.S. 113-145.1 *et seq.*, which recognizes the importance of protecting riparian buffers in protecting and conserving clean surface water;

(6) The Soil and Water Conservation Districts Act, N.C.G.S. § 139-1, *et seq.*, which provides for the preservation of farm, forest and grazing lands;

(7) N.C.G.S. § 106-583 *et seq.*, which states that “It is declared to be the policy of the State of North Carolina to promote the efficient production and utilization of the products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum prosperity;” and

(8) The special use assessment of farm and forestland as set forth in N.C.G.S. §105-277.2 *et. seq.*

N. The Grantor and Grantees have the common purpose of protecting and maintaining the aforementioned conservation values found on the Property and preventing conversion of the Property to nonagricultural uses. Grantor agrees to create and implement a conservation plan (hereinafter the “Conservation Plan”) that is developed utilizing the standards and specifications of the NRCS field office technical guide and 7 CFR part 12 as referenced in Section 9 below, and is approved by the local Soil and Water Conservation District.

NOW, THEREFORE, for the reasons given, for valuable consideration, the receipt and sufficiency of which is hereby in consideration of the premises and the mutual benefits recited herein, the sum of \$384,740.00, together with other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Grantor, for itself, its assigns and successors hereby unconditionally and irrevocably gives, grants and conveys forever and in perpetuity to the Grantees, its successors and assigns, which by the recordation of this instrument does accept, this Deed of Conservation Easement of the nature and character and to the extent hereinafter set forth in, over, through and across the Property, together with the right to preserve and protect the Conservation Values thereof as described in the Recitals herein.

The terms, conditions and restrictions of the Conservation Easement are as hereinafter set forth:

1. Grant of Conservation Easement. Grantor hereby voluntarily grants and conveys to the Grantees, and the Grantees hereby voluntarily accept, a perpetual Conservation Easement, which is an immediately vested interest in real property of the nature and character described herein. Grantor agrees that it will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants herein. Grantor authorizes the Grantees and the State to enforce these covenants in the manner described below.

Grantor hereby voluntarily grants and conveys to the Grantees all development rights for the Property, except as otherwise reserved and provided by the terms of this Conservation Easement, that are now or hereafter inherent in the Property. The parties hereto agree that such rights are now terminated and extinguished, and may not be used on or transmitted to any portion of the Property, as it now or hereafter may be bounded or described, or to any other property by anyone, including the Grantor and Grantees.

2. Statement of Purposes. The purposes of this Conservation Easement are to preserve the agricultural viability of the Property, to protect prime farmland soils and soils of statewide importance and to protect and preserve the cultural, wildlife, open space and other Conservation Values of the Property. An additional purpose of this Conservation Easement is to protect wetlands, riparian area and surface waters within the watershed where the Property is located, to the end that the waters flowing over it and the waters into which those waters flow may be preserved in quality and protected in their present uses, without the deleterious effects that may arise from the uses or development of the Property, which are prohibited herein.

For the purposes of this Conservation Easement, agriculture includes, by manner of illustration, but is not limited to, row cropping, dairy farming, animal husbandry, cattle grazing, horticultural and silvicultural uses of the land. Except as specifically permitted herein, no activity that shall significantly impair the potential agricultural use on the Property shall be permitted. To the extent that the preservation and protection of other natural, aquatic, recreational, habitat or scenic values referenced in this Conservation Easement are consistent with the primary purposes stated above, it is within the purpose of this Conservation Easement to also protect those values, and, except as specifically permitted herein, no activity which shall significantly impair those values shall be permitted.

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land and is enforceable by Grantees and the State against Grantor, their representatives, heirs, successors and assigns, lessees, agents, and licensees.

3. Rights and Responsibilities Retained by Grantor. Subject to the terms and restrictions hereof, the Grantor reserves to and for themselves and their successors the right to quiet enjoyment of the Property and the right to partake in passive, non-developed recreation on the Property. Furthermore Grantor reserves to and for themselves and their successors all customary rights and privileges of ownership, including without limitation the rights to sell, lease, encumber, impose restrictions on and devise the Property, provided such transaction is subject to the terms of this Conservation Easement and written notice is provided to the Local Grantee, together with any rights not specifically prohibited by or limited by this Conservation Easement and consistent with the Statement of Purposes in Section 2. Unless otherwise specified below, nothing in this Conservation Easement shall require the Grantor to take any action to restore the condition of the Property after any "Act of God" or other similar event over which they had no control. Grantor understands that nothing in this Deed relieves them of any obligation or restriction on the use of the Property imposed by law.

4. Right to Farm. Farming activities, including but not limited to dairy farming, livestock grazing, horticultural, beekeeping, growing grains and row crops, planting orchards, vineyards, raising berry products, tree farming and nursery operations, and animal husbandry operations are permitted on the Property in areas described as Agricultural Zone No. 1, Agricultural Zone No. 2, Agricultural Zone No. 3, Farm Envelope No. 1, and Farm Envelope No. 2 on the Survey (collectively and hereinafter the “Agricultural Zone”) only if conducted consistently with Best Management Practices promulgated by the State of North Carolina and in conformity with the Conservation Plan, the terms of which are further described in Section 9 of this Conservation Easement.

Turf and sod farming and the harvesting of nursery plants with methods such as balled and burlapped or tree spade are prohibited in the Property by this Conservation Easement.

There shall be no activities, pollution or surface alteration of any kind that would be detrimental to water quality or that would increase sedimentation into any surface waters, or cause soil degradation or erosion, including but not limited to any sort of diking, dredging, alteration, draining, filling or removal of wetlands, except Grantor retains the right to have access to and use of water from any existing springs and creeks on the Property and the right to drill wells on the Property to provide water incident to the exercise of any reserved rights set forth herein.

In the event any portion of the Agricultural Zone is no longer maintained for agricultural production, it shall be allowed or caused to reforest and be subject to the provisions described in Section 5 below.

Agricultural activities are prohibited within a permanent vegetated riparian area that shall be maintained at not less than an average of fifty (50) feet from the bank of Cartoogechaye Creek and its tributary, the locations of which are identified and marked on the Survey.

5. Forest Management and Commercial Forestry. As used in this Conservation Easement, “forest management” or “forestry” is defined as forest management activities, including (unless restricted herein) the growing, harvesting, gathering and storing of forest products; the growing and stocking of forest trees of any size capable of producing forest products; commercial and pre-commercial treatments related to the production or management of forest products, including thinning activities, prescribed fire, and the lawful use of biocides; the processing and sale of products produced on the Property with equipment designed for in-woods processing; the cutting and sale of timber and other forest products; road, trail, landing and bridge construction; and generally accepted forest management activities to support the growing, gathering, harvesting and storing of forest products. “Commercial forestry” is defined as any of the foregoing activities that result or are intended to result in the sale, trade, or other transfer of ownership of forest products from the Property.

Outside the area defined as “CWMTF – Conservation Easement Area” on the Survey, Grantor retains the right to conduct forest management and commercial forestry by ecologically sound methods designed to allow for a sustained and renewable source of forest products. Forest

management and commercial forestry must be conducted in accordance with (i) the Conservation Plan the terms of which are further described in Section 8 of this Conservation Easement (ii) a written Forest Management Plan (hereinafter referred to as the “Plan”), (iii) then currently available North Carolina Forest Practices Guidelines (e.g., 15 NCAC 1I.0101-.0209), as outlined in the Forestry Best Management Practices Manual, and (iv) all other applicable county, state, and federal forestry laws and regulations as they may apply to the specific timber harvest activities.

a. Forest Management Plan. Prior to commencement of harvesting or other forest management activities, a Forest Management Plan is required. The Plan must be consistent with the terms of the Conservation Easement. The requirements of the Plan include those listed in subparagraphs i.-iii. below.

i. Plan Preparation. The Plan must be prepared by the North Carolina Division of Forest Resources, a forester registered in the State of North Carolina, or other qualified person approved in advance and in writing by the Grantee. Said Plan shall have been prepared not more than 15 years prior to the date any commercial harvesting is expected to commence, or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date. Otherwise, periodic amendments and updates to the Plan are encouraged but not required.

ii. Grantee Review. The Plan shall be provided to Grantee prior to conducting any timber-harvesting activities. Grantee may review the Plan for consistency with the purposes and terms of this Easement, but Grantor is not required to obtain Grantee’s approval of the Plan. If the Grantee determines that any portion of the Plan is inconsistent with the terms of this Easement or that resulting forest management activities could result in a violation of this Easement, the Grantee will provide written comments to the Grantor identifying and explaining such inconsistencies that may result in a violation of the Easement; but Grantee shall have no obligation to make such evaluation, and it is acknowledged that the actual activities and outcomes on the Property will determine compliance with this Conservation Easement. Neither Grantee’s right to provide comments, nor its actual comments, shall constitute a waiver of the terms of this Easement.

iii. Content of Plan. The Plan shall include, at a minimum, the following information, together with maps and charts to support and illustrate the required documentation:

- (a) Grantor’s long-term management goals and objectives;
- (b) Descriptions, mapped locations, and management considerations for:
 - Forest stands (community type, species, age, size, history, condition);
 - Soils;
 - Unique plant or animal communities and any ecologically sensitive and/or important areas;

- Known archaeological, cultural, or historic sites;
 - Surface waters, including springs, streams, seeps, ponds, and wetlands;
 - Existing man-made improvements and features (such as roads, buildings, fences);
- (c) Timber harvest intent, silvicultural treatments, schedules, and logging equipment and practices to be employed or avoided;
- (d) Other forest management practices, activities, and schedules.

b. Forest Roads. The Grantor retains the right to maintain, repair, and replace existing forest management roads and associated bridges and culverts, together with the right to construct new forest management roads and associated improvements, provided that said roads and associated improvements fulfill the following requirements: (a) Such construction is consistent with the Purposes of the Grant; (b) Additional road improvements are necessary to provide reasonable forest management access to the Property and the system of existing roads is not adequate, and (c) Such construction is in compliance with then currently available North Carolina Forest Practices Guidelines (e.g., 15 NCAC 11.0101-.0209).

c. Notice of Harvest and Contractor Requirements. The following conditions apply to the commercial forestry rights reserved by Grantor:

i. a Timber Harvest Plan shall be prepared prior to any commercial timber harvest. The Timber Harvest Plan must address the nature and scope of harvest activity (size and location of area to be logged; prescribed silvicultural treatment; equipment to be used; and major access routes including haul roads, landing, major skid trails, and stream crossings), appropriately scaled and accurate maps, and a summary of activities and practices intended to achieve compliance with the requirements of the Forest Management Plan and this Conservation Easement. The Timber Harvest Plan must be prepared or certified by the North Carolina Division of Forest Resources or a registered forester.

ii. Grantor shall provide Grantee with a written Notice of Harvest (Notice) at least three (3) business days prior to scheduled commencement of harvesting activities. Such Notice shall include the name of the registered forester supervising the harvest, the timber buyer and/or logger, planned date for commencement of harvesting activities, and the Timber Harvest Plan. If commencement of harvesting activities is delayed by more than fifteen business days (three calendar weeks) past the date specified in the Notice, Grantor shall notify Grantee, either by written or verbal communication, of each such delay and shall provide Grantee with each planned date for commencement of harvesting activities.

iii. timber harvesting shall be supervised by a registered forester, and conducted within the constraints of the certified Forest Management Plan and

the Timber Harvest Plan under a written contract with a timber buyer and/or logger. Such contract shall specify relevant requirements for compliance with this Conservation Easement and the Grantor is encouraged but not required to obtain a performance bond for compliance with the terms hereof; and

iv. within thirty (30) days of completion of the harvest, including required reclamation work, Grantor shall provide a written notice of completion to Grantee.

With the consent of both Grantor and Grantee, such time frames as required above in Section 5 c. ii. and Section 5 c. iv. may be waived on a case by case basis.

d. Non-Commercial Timber Harvest. Notwithstanding any provision in this Conservation Easement to the contrary, Grantor retains the right, without seeking the Grantee's prior review, to remove damaged, diseased or dead trees for non-commercial purposes, to remove trees in connection with construction activities permitted herein, to remove trees in connection with the agricultural activities permitted herein, to remove trees that present a hazard to persons or property, and to remove trees for the cutting of firewood, posts, lumber, and poles for non-commercial uses.

6. Right to Privacy. Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Property. This Conservation Easement does not create any rights of the public in, on or to the Property. However, the public has the right to view the Property from any adjacent publicly accessible areas.

7. Subdivision. The Property may not be subdivided, partitioned, or conveyed separately, and shall remain in its current configuration as an undivided entity or parcel of land.

8. Prohibited Activities. Any activities, practices, or uses of the Property that would in any way alter, impede, or interfere with the Conservation Values are strictly prohibited. Without limiting the generality of the foregoing, any use or activity that causes or is likely to cause soil degradation or erosion or pollution of any surface or sub-surface waters is prohibited. Farming activities conducted in accordance with the Conservation Plan are not considered to be "soil degradation or erosion or pollution" as contemplated by this Conservation Easement, and such activities are expressly permitted. Motorized vehicles, including off-road vehicles, are limited to roads and trails or to such noncommercial use that does not impair the Conservation Values of the Property.

The use of herbicides, insecticides, fungicides, fertilizers or other potentially harmful substances or the use or disposal of agricultural products and by-products on the Property must be controlled and limited so as not to have a material adverse effect on the waters or wildlife habitat associated with the Property, such as wildlife mortality or statistically significant measurable increases in the delivery of polluting nutrients to aquatic habitats. Any use of

chemicals, substances or other similar agents on the Property must be in accordance with the Conservation Plan, government regulations and manufacturer requirements.

9. Conservation Practices. As required by section 1238 I of the Food Security Act of 1985, as amended, the Grantor, its heirs, successors, or assigns, shall conduct all agricultural operations on the Property in a manner consistent with a “Conservation Plan” prepared in consultation with NRCS and approved by the Conservation District. This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on date of execution of this Conservation Easement. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve (12) months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the Local Grantee of the Grantor’s noncompliance. The Local Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Conservation Easement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

10. Limitation on Impervious Surfaces. Impervious surface shall be defined as any material which covers land and inhibits the percolation of water directly into the soil, including, but not limited to, buildings, roofing, the area covered by permanent or nonpermanent structures, macadam and pavement, concrete and stone driveways and parking areas. This definition does not consider gravel to be an impervious surface. In addition, Conservation practices listed in the electronic Field Office Technical Guide (“eFOTG”) are exempt from the impervious cover limitation. The impervious surfaces, as permitted herein and under Sections 13 and 16, shall not exceed two percent (2%) of the entire acreage of the Property, including both existing and proposed structures which are either permanent or temporary.

11. Water Rights. Grantor shall retain and reserve the right to use any appurtenant water rights sufficient to maintain the agricultural productivity of the Property. Grantor shall not

transfer, encumber, lease, sell or otherwise separate such water rights from title to the Property itself.

12. Natural Resource Restoration and Enhancement Activities. Notwithstanding any terms contained within this Conservation Easement, Grantor may engage or contract others to engage in any activity that is consistent with the Conservation Values of this Easement and subject to the written approval of Local Grantee and designed to repair, restore, or otherwise enhance the natural resources found or once present on the Property. However, this right does not in any case allow for any activities that would impair the predominant agricultural viability of the Property and must be consistent with protecting the soils on the Property.

13. Buildings and Other Improvements. The Grantor's rights to construct or reconstruct buildings and other improvements are described in subparagraphs (i) through (iii) below. Any construction or reconstruction not permitted below is prohibited.

(i) *Agricultural Structures and Improvements* - With advance written approval from the Local Grantee, buildings, barns, greenhouses, sheds, and other structures and improvements to be used for otherwise lawful, commonly practiced, used or observed actions, activities or undertakings that are of or relating to agriculture, rural enterprise or country life, including, but not limited to firewood distribution and the processing and sale of farm products predominantly raised on the Property, may be built within Farm Envelope No. 1 and Farm Envelope No. 2 as shown on the Survey. Unless otherwise permitted by this Conservation Easement, no new structures or improvements shall be constructed on the Property outside of Farm Envelope No. 1 and Farm Envelope No. 2.

Grantor reserves the right to move topsoil and excavate within the Farm Envelopes in order to exercise reserved rights.

(ii) *Residential Structures and Improvements* – There are no homes or other residential buildings on the Property and no new homes or residential buildings may be built on the Property (inside or outside the Farm Envelopes).

(iii) *Utility Services and Septic Systems* - With advance written approval from the Local Grantee, installation, maintenance, replacement, removal and relocation of electric, gas, and water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or under the Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements permitted herein, and the right to grant easements over and under the Property for such purposes, are permitted, except that no new utilities shall be constructed closer than one hundred (100) feet from the top of the bank of Cartoogechaye Creek and its tributaries. With advance written approval from the Local Grantee, construction, maintenance, replacement, repair or improvement of septic systems or other underground sanitary system, for the benefit of any of the improvements permitted herein, is permitted. Local Grantee shall not give such approval unless the Grantee determines that the proposed activity will not substantially diminish or impair the conservation values of the Property with particular attention given to the archaeological resources. All other utilities are

prohibited on the Property including, but not limited to, cellular communication towers or structures.

(iv) *Renewable Power Sources* - Grantor retains the right to place, construct, replace, repair and maintain facilities for generation, utilization, and distribution of solar and hydroelectric energy resources and other renewable power sources for use on the Property; provided that the design and location of any such facilities shall be subject to the prior written approval of Local Grantee.

14. Right to Maintain and Construct Fences. Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife.

15. Livestock Watering Systems. Existing watering systems may be repaired and replaced, and new watering systems may be built on the Property for purposes of reasonable and customary watering of livestock. Placement of such watering systems shall be consistent with and part of the Conservation Plan.

16. Customary Rural Enterprises. Grantor retains the right to use the Property for otherwise lawful and customary rural enterprises, such as, but not limited to, farm machinery repair, agro-tourism, community gardens, seasonal festivals, wholesale and retail sale of farm products, boarding stables or educational programs. For purposes herein, the term agro-tourism shall be broadly defined to mean those farming activities and traditional rural activities enjoyed by the public, including but not limited to: hayrides, farm animal observation pens, corn mazes, and the like that have minimal negative impacts upon the Conservation Values of the Property and are limited to “de minimis” access to and uses of the Property.

17. Construction and Maintenance of Roads. Construction and maintenance of unpaved farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Property by this Conservation Easement are permitted. No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material as defined in Section 10, without the advance written permission of the Local Grantee. The Local Grantee may not give such permission unless the Local Grantee determines that the proposed paving, or covering of the soil, or the location of any such road, will not substantially diminish or impair the Conservation Values of the Property.

18. Mining. There shall be no filling, excavation, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, peat, minerals or other materials, including hydrocarbons; and no change in the topography of the land in any manner except as necessary for the purpose of combating erosion or flooding in accordance with the Conservation Plan and as reasonably necessary for any permitted maintenance, construction or reconstruction on the Property. Areas disturbed as permitted under this provision will be limited to one (1) acre in total surface area and will be restored as soon as practicable after the disturbance. Under no circumstances is the exploration, exploitation and/or drilling for oil, natural gas, coal and/or other hydrocarbons permitted in, on or to the Property.

19. Dumping and Trash. No trash, refuse, vehicle bodies or parts, rubbish, debris, junk, waste, radioactive or hazardous waste or Hazardous Materials shall be placed, stored, dumped, buried or permitted to remain on the Property. Except that, the storage of agricultural products, byproducts (including the composting of biodegradable material for on-farm use) and agricultural equipment and fuel used on the Property is permitted so long as such storage is done in accordance with all applicable government laws and regulations and in such a manner so as to not impair the Conservation Values of the Property.

20. Recreational Activities. Grantor expressly reserves the right to engage in low impact, non-developed recreational activities including but not limited to, hunting, fishing, hiking, primitive camping, and bird watching on the Property and to control access of all persons for the purpose of hunting and fishing; provided that these activities do not impact the protection and conservation of any animal habitat or other Conservation Values, and further provided that all hunting and fishing activities shall be conducted pursuant to all required licenses and in accordance with all applicable regulations. Developed recreational activities, including, but not limited to, helicopter pads, runways, golf courses, motorized vehicle tracks for the purpose of racing, are prohibited.

21. Signs. No signs shall be permitted on the Property except no trespassing signs, local, state or federal traffic or similar informational signs, for sale or lease signs, fencing, signs identifying the Conservation Values of the Property, and/or signs identifying the Trust Fund or Grantees as the source of funds for the Conservation Easement on the Property, Grantor as owner of the Property and Grantees as holders of this Conservation Easement, educational and interpretative signs, signs related to farm equipment and agricultural buildings, signs directing visitors to buildings located within the Agricultural Building Area, or identification labels or any other similar temporary or permanent signs reasonably satisfactory to the Trust Fund.

22. No Mitigation. There shall be no use of the Property to satisfy compensatory mitigation requirements under 33 USC Section 1344 or NCGS §143-214.11 or any successor or replacement provision of the foregoing.

23. Ongoing Responsibilities of Grantor and Grantee. Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantees, or the State, or in any way to affect any existing obligation of the Grantor as owner of the Property. Among other things, this shall apply to:

(A) *Taxes* – Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If the Local Grantee is ever required to pay any taxes or assessments on its interest in the Property, the Grantor will reimburse the Grantees for the same.

(B) *Upkeep and Maintenance* – Grantor retains all responsibilities and shall bear all costs and liability of any kinds related to the ownership, operation, and upkeep and maintenance of the Property, including the maintenance of adequate comprehensive

general liability insurance coverage. The Grantees shall have no obligation for the upkeep or maintenance of the Property. Grantor will remain responsible for upkeep, maintenance, and repairs to any impoundments located on the Property.

(C) *Liability and Indemnification* – Grantor agrees to indemnify and hold Grantees and the State harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys' fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the intentional misconduct or negligence of Grantees, the State or their agents, in which case liability shall be apportioned accordingly.

24. Stewardship and Monitoring. Pursuant to the terms of the Grant Agreement, the Land Trust for the Little Tennessee, as steward of the Property, hereby covenants and agrees that, not less frequently than annually, it will monitor and observe the Property, or provide for such monitoring and reporting by any grantee, successor in title or assign, in perpetuity with the State, to assure compliance with the purposes and provisions of this Conservation Easement and the provisions of the Grant Agreement, and/ or the policies of the Farm and Ranch Lands Protection Program, and that it will report, or provide for the reporting to the State, the United States, and the Trust Fund any observed and/or known violations of this Conservation Easement, the Grant Agreement, and/or the policies of the Farm and Ranch Lands Protection Program on the Property (the “Stewardship Obligation”). In furtherance of this covenant and pursuant to the Grant Agreement, the Land Trust for the Little Tennessee may receive monies from the Trust Fund to carry out this covenant with respect to the area shown as CWMTF – Conservation Easement Area on the Survey, (the “Stewardship Funds”).

25. Limited Assignment of Conservation Easement. The Parties acknowledge and agree that the Land Trust for the Little Tennessee will assign to the State, acting by and through the Trust Fund, the right, but not the obligation, to enforce this Conservation Easement within the area shown as CWMTF – Conservation Easement Area on the Survey. This Limited Assignment shall be made by a separate instrument executed by the Local Grantee and the Trust Fund. There shall be no obligation on the part of the Local Grantee to pay consideration to the United States in connection with the conveyance of the Limited Assignment. The Limited Assignment shall include a right of entry to the State, its agents, employees, successors and assigns to enter the Property for purposes of monitoring the area shown as CWMTF – Conservation Easement Area on the Survey. Further, the Land Trust for the Little Tennessee shall expressly reserve unto itself in the Limited Assignment the *nonexclusive right* to carry out the Stewardship Obligation in perpetuity with the State, including a right of ingress, egress and regress on the Property and the area shown as CWMTF – Conservation Easement Area on the Survey to exercise said non-exclusive Stewardship Obligation in the area shown as CWMTF – Conservation Easement Area on the Survey. The Limited Assignment shall be recorded in the Macon County Registry, and may be re-recorded from time-to-time to preserve the rights of the State and the Trust Fund therein.

26. Enforcement. With reasonable advance written notice to or verbal approval from the Grantor, the Local Grantee shall have the right to enter the Property for the purpose of

inspecting for compliance with the terms of this Conservation Easement. The Local Grantee shall have the right to prevent violations and remedy violations of the terms of this Conservation Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Property, the Local Grantee shall give the Grantor written notice of the violation and thirty (30) days to cure the violation, before commencing any legal proceedings. If a court with jurisdiction determines that a violation may exist or has occurred, the Local Grantee may obtain an injunction to stop the violation, temporarily or permanently. The Parties agree that a court may issue an injunction or order requiring the Grantor to restore the Property to its condition prior to the violation as restoration of the property may be the only appropriate remedy. In any case where a court finds that a violation has occurred, the Grantor shall reimburse the Local Grantee for all expenses incurred by Local Grantee in stopping and correcting the violation, including but not limited to court costs, attorneys' fees, and any other costs incurred with onsite remediation. If legal action is brought by the Local Grantee, and the court finds that no violation has occurred, each party shall bear its own costs. The failure of the Local Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time for that violation or any subsequent violations.

27. Transfer of Conservation Easement. Subject to the Grantor's reasonable approval of the proposed transferee, the rights of the United States of America as specified in Section 42, the terms of the Limited Assignment, and prior written approval of the United States Department of Agriculture and the Trust Fund, the Local Grantee shall have the right to transfer its interest in this Conservation Easement to any public agency or private nonprofit organization that, at the time of transfer, is a qualified organization under §170(h) of the U.S. Internal Revenue Code, as amended and under NCGS 121-34 *et seq.*, provided the agency or organization expressly agrees to assume the responsibility imposed on the transferring party or parties by this Conservation Easement. As a condition of such transfer, the Local Grantee shall require that the conservation purposes intended to be advanced hereunder shall be continued to be carried out. If Local Grantee ever ceases to exist or no longer qualifies under §170(h) of the U.S. Internal Revenue Code, or applicable state law, and the United States declines to exercise its rights as set forth in Section 42, a court with jurisdiction shall transfer this Conservation Easement to another qualified organization having similar purposes that agrees to assume the Local Grantee's responsibility imposed by this Conservation Easement.

28. Transfer of Property. Grantor agrees to provide to the Local Grantee, in writing of the name and address of any party to whom the Property or any interest thereof, is to be transferred. Grantor agrees to incorporate by reference the terms of this Conservation Easement in any deed or other legal instrument by which they transfer or divest themselves of any interests, including leasehold interests, in all or a portion of the Property. Failure of Grantor to comply with this Section shall not impair the validity of this Conservation Easement as to successor owners or limit its enforceability in any way, nor shall Grantor's failure to comply with this Section constitute a default under this Conservation Easement.

29. Transfer of the Non-Exclusive Stewardship Obligation and Stewardship Funds. Subject to the Grantor's reasonable approval of the proposed transferee, the rights of the United States as specified in Section 42 below, the terms of the Limited Assignment, and with timely written notice and prior written approval by the United States and the State, the Local Grantee shall have the right to transfer its non-exclusive Stewardship Obligation with respect to the area shown as CWMTF-Conservation Easement Area on the Survey dated 02 May 2008, prepared by Smoky Mountain Land Surveying PA, to a qualified organization under §170(h) of the United States Internal Revenue Code, as amended and under NCGS 121-34 *et seq.*, provided the agency or organization expressly agrees to assume the non-exclusive Stewardship Obligation (hereinafter the "Stewardship Assignee"). With the consent of the Trust Fund and the United States, upon any such conveyance or assignment to a Stewardship Assignee, Local Grantee and its assigns may be released from some or all of the Stewardship Obligation. Notification and transfer of the Stewardship Obligation shall be in the form of an instrument of release signed by the Parties or their successors in interest and the Stewardship Assignee, and recorded in the Office of the Macon County Register of Deeds.

In the event that the non-exclusive Stewardship Obligation is properly assigned, Local Grantee may transfer *pro rata* the balance of the Stewardship Funds to the Stewardship Assignee. Notification and transfer of the Stewardship Funds shall be in a writing made by and among Grantor, Local Grantee, Stewardship Assignee and the Trust Fund, a copy of which shall be available for inspection in the offices of the Local Grantee, Stewardship Assignee, NRCS, and the Trust Fund.

30. Amendment of Conservation Easement. This Conservation Easement may be amended by a written instrument executed by the Grantees, the Grantor and the Trust Fund. Any such amendment shall be consistent with the Statement of Purpose of this Conservation Easement and with the Grantees' Conservation Easement amendment policies, and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded.

31. Procedure in the Event of Termination of Conservation Easement. Grantor and Grantees agree that the grant of this Conservation Easement gives rise to a property right, immediately vested in the Grantees, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property prior to the restrictions imposed by the Conservation Easement. If it determines that conditions on or surrounding the Property change so much that it becomes impossible to fulfill the conservation purposes of this Conservation Easement, a court with jurisdiction may, at the joint request of both the Grantor and the Grantees, terminate the Conservation Easement in accordance with applicable state law. If the Conservation Easement is terminated and the Property is sold, the Grantees and Trust Fund shall be entitled to eighty-eight and six-tenths percent (88.6%) of the gross sale proceeds representing an amount equal to the ratio of the appraised value of this Conservation Easement to the unrestricted fair market value of the Property, as these values are determined on the date of this Conservation Easement. The Local Grantee, the United States, and the Trust Fund shall divide the resulting proceeds in accordance with the percentage of the purchase price of the Conservation Easement that each party contributed. The percentages are zero percent (0%) for

the Local Grantee, fifty percent (50%) for the United States, and thirty-eight and six-tenths percent (38.6%) for the Trust Fund. The Local Grantee shall disburse said proceeds as soon as practicable to the United States and to the Trust Fund, their respective shares of the proceeds. The Local Grantee shall use their proceeds consistently with the general conservation purposes of this Conservation Easement. Due to the federal interest in this easement, the United States must consent to any termination or extinguishment.

All termination related expenses incurred by the Grantor and the Grantees shall be paid out of any recovered proceeds prior to distribution of the net proceeds as described herein.

32. Procedure in the Event of Condemnation or Eminent Domain. If condemnation or a taking by eminent domain of a part of the Property or the entire Property by a public authority renders it impossible to fulfill any of the conservation purposes of this Conservation Easement on all or part of the Property, the Conservation Easement may be terminated accordingly through condemnation proceedings. If the Conservation Easement is terminated and any or all of the Property is sold or taken for public use, then the Grantees and Trust Fund shall be entitled to the proportionate value of the Conservation Easement which has been predetermined to equal eighty-eight and six-tenths percent (88.6%) of the Property's unrestricted value. If this Conservation Easement is terminated, the United States, the Trust Fund and the Local Grantee shall receive their proportional share of the Conservation Easement value at the time of termination.

Those proportional shares of the Conservation Easement value are as follows: zero percent (0%) for the Local Grantee, fifty percent (50%) for the United States, and thirty-eight and six-tenths percent (38.6%) for the Trust Fund. The Local Grantee shall use its proceeds consistently with the general conservation purposes of this Conservation Easement. Due to the federal interest in this Conservation Easement, the United States must consent to any condemnation or eminent domain.

All termination-related or condemnation-related expenses incurred by the Grantor and the Grantees shall be paid out of any recovered proceeds prior to distribution of the net proceeds as described herein.

33. Interpretation. This Conservation Easement shall be interpreted under the laws of the State of North Carolina and the laws of the United States, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

34. Perpetual Duration; Severability. This Conservation Easement shall be a servitude running with the land in perpetuity. Every provision of this Conservation Easement that applies to the Grantor or the Grantees shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Conservation Easement, or any part thereof by court order or judgment shall in no way affect the validity of any of the other provisions hereof, which shall remain in full force and effect.

35. Notices. Any notices required by this Conservation Easement shall be in writing to the appropriate party(ies) as specified in this Conservation Easement and shall be personally delivered or sent by first class mail to the Grantor, NRCS, Local Grantee, Trust Fund and the State, respectively at the following addresses, unless a party has been notified in writing by the other of a change of address:

If to Local Grantee:

The Land Trust for the Little Tennessee, Inc.
PO Box 1148
Franklin, NC 28744
Attn: Executive Director

If to Grantor:

Kathy Slagle Tinsley
151 Valley Lane
Franklin, NC 28734

If to State (with a copy to the Trust Fund):

State Property Office
State of North Carolina
1321 Mail Service Center
Raleigh, North Carolina 27699-1321

If to Trust Fund:

Clean Water Management Trust Fund
1651 Mail Service Center
Raleigh, North Carolina 27699-1651
Attn: Real Property Counsel

If to NRCS:

State Conservationist
4405 Bland Road, Suite 205
Raleigh, NC 27609

In any provision of this Conservation Easement in which the Grantor is required to provide advance notice to the Grantees of any activity on the Property, such notice shall be given not less than thirty (30) days prior to the planned commencement of the activity. If the Grantees' approval is required, such approval shall be deemed withheld unless Grantees provide to the Grantor written notice of approval within thirty (30) days of receipt of said request. If Grantor has received no response after said thirty (30) days, Grantor may send a second written notice to Grantees requesting a statement of the reasons for the disapproval and the Grantees shall respond within thirty (30) days with an explanation for the specific reasons and basis for its decision to disapprove.

36. Grantor's Title Warranty. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and have good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement, and that the Grantees shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement subject to existing easements for roads and public and private utilities.

37. Subsequent Liens on Property. No provisions of this Conservation Easement should be construed as impairing the ability of Grantor to use the Property as collateral for

subsequent borrowing. Any such liens shall be subordinated to this Conservation Easement and the Limited Assignment.

38. Subsequent Easements/Restrictions on the Property. The grant of any easements or use restrictions that might diminish or impair the agricultural viability or productivity of the Property or otherwise diminish or impair the Conservation Values of the Property is prohibited. Any such easements or restrictions shall be subordinated to this Conservation Easement and the Limited Assignment.

39. Environmental Condition. “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 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 warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property exceeding regulatory limits. Moreover, Grantor hereby promises to indemnify and hold harmless the United States against all costs, 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 Grantees to Grantor with respect to the Property or any restoration activities carried out by Grantees at the Property; provided, however, that Grantees shall be responsible for any Hazardous Materials contributed after this date to the Property by Grantees.

40. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the said easements.

41. Recording Clause. The Local Grantee shall record this instrument and any amendment hereto in timely fashion with the Office of the Register of Deeds of Macon County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

42. Merger Clause. The Parties agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property. In the event that Local Grantee acquires fee title to the Property, as soon as possible Local Grantee shall transfer the Conservation Easement in accordance with Section 27 hereof, subject to the Limited Assignment.

43. Rights of the United States of America. Under this Conservation Easement, the same rights are granted to the United States that are granted to the Local Grantee. However, the Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will only exercise these rights under the following circumstances: In the event that the Local Grantee fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States' rights to enforce the terms of this Conservation Easement through any and all authorities available under Federal or State law. In the event that the Local Grantee attempts to terminate, transfer or otherwise divest itself of any right, title, or interests in this Conservation Easement without the prior consent of the Secretary and, if applicable, payment of consideration to the United States, then, at the option of the Secretary, all right, title, and interest in this Conservation Easement shall become vested solely in the United States of America.

44. Archeological Resources. Future archaeological identification, evaluation or treatment is permitted only upon the advance written approval by the Local Grantee and prior concurrence by the Eastern Band Cherokee Indians Tribal Historic Preservation Office. Any future archaeological identification, evaluation or treatment investigations must be conducted in accordance with the *Secretary of the Interior's Standards for Archaeological Documentation* and conducted by individuals who meet the *Secretary of the Interior's Professional Qualifications Standards* for archaeological work.

TO HAVE AND TO HOLD this Deed of Conservation Easement unto Grantees, their respective successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor and Grantees, intending to legally bind themselves, have set their hands on the date first written above.

[Signature pages follow with acknowledgements follow.]

**SIGNATURE PAGE FOR GRANTORS
TINSLEY AGRICULTURAL CONSERVATION EASEMENT**

GRANTOR: **KATHY SLAGLE TINSLEY and DANIEL LEE TINSLEY**

BY: _____
Kathy Slagle Tinsley [SEAL]

BY: _____
Daniel Lee Tinsley [SEAL]

**NORTH CAROLINA
COUNTY OF MACON**

I, _____, a Notary Public of Macon County, State of North Carolina, certify that **Kathy Slagle Tinsley** and **Daniel Lee Tinsley**, Grantor(s) personally appeared before me this day and acknowledged the execution of the foregoing instrument. WITNESS my hand and notarial seal, this _____, 2008.

Notary Public (SEAL)
My commission expires: _____

[Notarial Seal]

**SIGNATURE PAGE FOR LOCAL GRANTEE
TINSLEY AGRICULTURAL CONSERVATION EASEMENT**

LOCAL GRANTEE: **THE LAND TRUST FOR THE LITTLE TENNESSEE, INC.**

By: _____
PAUL CARLSON, Executive Director

Attest:

By: LYDIA SARGENT MACAULEY, Secretary

(Corporate Seal)

**STATE OF NORTH CAROLINA
MACON COUNTY**

I, Kenneth W. Fromknecht, II, a Notary Public of Macon County, North Carolina do hereby certify that LYDIA SARGENT MACAULEY personally appeared before me this day and acknowledged that she is the Secretary of The Land Trust for the Little Tennessee, Inc., a nonprofit corporation, and that by authority duly given and as act of the corporation the foregoing instrument was signed in its name by its Executive Director, sealed with its corporate seal and attested by herself as its Secretary.

WITNESS my hand and notarial seal, this _____, 2008.

Notary Public (SEAL)
My commission expires: June 23, 2013

**SIGNATURE PAGE FOR UNITED STATES
TINSLEY AGRICULTURAL CONSERVATION EASEMENT**

**UNITED STATES OF AMERICA
USDA – Natural Resources Conservation Service**

By: _____ (Seal)
_____, ASTC-Programs

**STATE OF NORTH CAROLINA
COUNTY OF _____**

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that the following person(s) personally appeared before me this day, and (*mark "X" next to appropriate statement below*)

- I have personal knowledge of the identity of the principal(s)
- I have seen satisfactory evidence of the principal(s) identity by a current state or federal identification with the principal's photograph in the form of a _____
- a credible witness has sworn to the identity of the principal(s),

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the _____ day of _____, 2008.

_____, Notary Public
Typed/Printed Name

My Commission Expires: _____

EXHIBIT A
Legal Description

Beginning at a point in the center of Valley Lane,
said beginning point being located N 33°54'52" W a distance of 1500.57'
from N.C. Geodetic Survey Monument "Slagle",
said monument having N.C. Grid Coordinates (NAD83 NSRS2007)
of N 537,865.88 Ft., E 663,339.09 Ft.
runs thence N 87°32'09" W a distance of 30.10' to an iron pipe set;
thence N 87°32'09" W a distance of 102.20' to an iron pipe set;
thence N 85°43'24" W a distance of 101.70' to an iron pipe set;
thence N 88°10'59" W a distance of 52.67' to an iron pipe set;
thence N 89°14'13" W a distance of 34.81' to an iron pipe set;
thence S 75°51'33" W a distance of 105.06' to an iron pipe set;
thence S 75°51'33" W a distance of 11.07' to the center of a small branch;
thence following said branch upstream as it meanders the following courses,
S 46°56'18" E a distance of 15.70';
thence S 15°28'27" E a distance of 15.96';
thence S 02°13'23" E a distance of 13.32';
thence S 15°46'27" E a distance of 29.62';
thence S 17°03'30" E a distance of 38.63';
thence S 16°03'22" E a distance of 27.24';
thence S 07°24'57" E a distance of 23.66';
thence S 16°24'00" E a distance of 15.12';
thence S 02°13'11" W a distance of 22.73';
thence S 24°53'12" E a distance of 11.04';
thence S 37°28'05" E a distance of 8.30';
thence S 11°22'50" E a distance of 19.96';
thence S 17°58'54" E a distance of 22.42';
thence leaving said branch N 84°16'30" W a distance of 10.18'
to an existing iron pipe;
thence N 84°16'30" W a distance of 220.32' to an existing iron pipe;
thence S 82°59'23" W a distance of 60.52' to an existing iron pipe;
thence S 63°49'18" W a distance of 63.79' to an existing iron pipe;
thence S 63°43'31" W a distance of 77.64' to an existing iron pipe;
thence S 80°48'03" W a distance of 75.84' to an existing iron pipe;
thence N 68°00'34" W a distance of 63.81' to an existing iron pipe;
thence N 09°25'20" W a distance of 208.50' to an iron pipe set;
thence N 57°47'06" W a distance of 230.32' to an existing iron pipe;
thence S 78°01'55" W a distance of 134.92' to an existing iron pipe;
thence N 25°26'32" W a distance of 89.32' to an existing iron pipe;
thence N 25°26'32" W a distance of 56.00' to the center of Cartoogechaye
Creek;
thence following the center of Cartoogechaye Creek upstream the following
courses,
N 66°14'33" E a distance of 116.80';
thence N 56°11'37" E a distance of 51.40';
thence N 39°41'12" E a distance of 38.76';
thence N 58°17'23" E a distance of 21.88';
thence N 75°39'48" E a distance of 19.30';
thence N 84°34'39" E a distance of 122.45';
thence N 72°12'52" E a distance of 53.72';
thence N 80°52'21" E a distance of 81.43';
thence N 88°38'55" E a distance of 98.30';
thence S 75°56'27" E a distance of 105.05';
thence S 79°36'29" E a distance of 103.03';
thence leaving said creek N 02°36'01" E a distance of 36.94' to an iron pipe
set;
thence N 02°36'01" E a distance of 90.28' to an iron pipe set;
thence N 57°26'37" W a distance of 56.87' to an iron pipe set;

thence N 81°39'47" W a distance of 471.47' to an existing concrete monument;
 thence N 11°43'44" W a distance of 227.59' to an iron pipe set;
 thence N 53°26'44" E a distance of 262.37' to an iron pipe set;
 thence N 17°16'07" W a distance of 13.32' to the center of a 30' Road Right-of-Way and utility easement;
 thence following said easement N 69°52'27" E a distance of 11.32';
 thence N 57°18'45" E a distance of 19.34';
 thence N 38°49'18" E a distance of 19.01';
 thence N 25°11'52" E a distance of 27.97';
 thence N 20°02'52" E a distance of 53.01';
 thence N 17°25'54" E a distance of 39.56';
 thence N 13°28'05" E a distance of 46.43';
 thence N 09°04'55" E a distance of 37.98';
 thence N 04°23'43" E a distance of 23.71';
 thence N 03°18'20" W a distance of 23.43';
 thence N 13°25'09" W a distance of 28.26';
 thence N 19°28'32" W a distance of 22.94';
 thence N 28°54'44" W a distance of 40.13';
 thence N 33°21'53" W a distance of 109.99';
 thence N 30°34'06" W a distance of 82.62';
 thence N 37°39'29" W a distance of 32.12';
 thence N 43°09'19" W a distance of 36.71';
 thence N 47°06'12" W a distance of 27.34';
 thence N 49°07'14" W a distance of 40.60';
 thence N 52°16'05" W a distance of 43.85';
 thence N 54°50'16" W a distance of 90.69';
 thence N 56°31'42" W a distance of 120.62';
 thence N 50°35'54" W a distance of 28.49';
 thence N 46°07'43" W a distance of 28.60';
 thence N 34°45'09" W a distance of 17.54';
 thence N 11°43'44" W a distance of 50.15';
 thence N 17°55'29" E a distance of 18.16'
 to a point in the center of S.R. 1470;
 thence following the centerline of S.R. 1470,
 N 59°33'15" W a distance of 32.36';
 thence leaving said S.R. 1470, N 11°43'44" W a distance of 338.13'
 to an existing iron rod;
 thence N 88°02'27" E a distance of 821.51' to an existing iron rod;
 thence N 88°02'27" E a distance of 37.59'
 to the center of Cartoogechaye Creek;
 thence following said creek upstream the following courses
 S 24°27'52" E a distance of 65.67';
 thence S 20°52'04" E a distance of 127.72';
 thence S 14°59'16" E a distance of 157.08';
 thence S 20°47'15" E a distance of 164.58';
 thence S 10°39'40" E a distance of 59.75';
 thence S 08°33'17" W a distance of 131.42';
 thence S 05°53'08" W a distance of 43.25'
 to the center of a bridge on S.R. 1470;
 thence leaving said creek and following the centerline of S.R. 1470
 S 66°42'33" E a distance of 137.83';
 thence S 67°12'43" E a distance of 231.76';
 thence S 65°33'58" E a distance of 280.29';
 thence S 63°26'43" E a distance of 48.94';
 thence S 60°00'33" E a distance of 46.28';
 thence S 54°02'48" E a distance of 49.12';
 thence S 45°08'03" E a distance of 45.34';
 thence S 33°45'23" E a distance of 42.73'
 to the intersection of the centerline of Slagle Farm Road;
 thence continuing along the centerline of S.R. 1470
 S 17°19'43" E a distance of 54.70';

thence S 09°50'56" E a distance of 186.20';
thence S 09°50'56" E a distance of 12.26';
thence S 07°12'49" E a distance of 67.37';
thence S 04°11'46" E a distance of 38.39';
thence S 00°39'37" E a distance of 34.34';
thence S 04°01'49" W a distance of 9.98';
thence S 04°01'49" W a distance of 40.54';
thence S 09°58'28" W a distance of 53.24';
thence S 11°22'32" W a distance of 72.47';
thence S 08°16'32" W a distance of 17.80';
thence S 05°53'46" W a distance of 29.45'
to the intersection of the centerline of S.R. 1465;
thence leaving S.R. 1470 and following the centerline of S.R. 1465
S 82°34'03" W a distance of 59.93';
thence S 70°00'48" W a distance of 46.24';
thence S 56°06'03" W a distance of 61.83';
thence S 44°43'38" W a distance of 74.09';
thence S 81°39'47" E a distance of 4.84';
thence S 33°45'02" W a distance of 197.23';
thence S 34°30'52" W a distance of 95.44';
thence S 38°52'32" W a distance of 12.79';
thence S 38°53'21" W a distance of 52.21';
to the point of beginning,
having an area of 56.07 acres

EXHIBIT B

CHARACTERISTICS OF THE PROPERTY

Current Use:

The Easement Area consists primarily of open flat and rolling pastureland along Cartoogechaye Creek and Slagle Branch from which hay is cut and where cattle are pastured; a large area of bottomland forest, including wetlands, west of Cartoogechaye Creek and small areas of riparian forest near the creek and branch; and upland forest along the western margins of Agricultural Zone 1 and the CWMTF Conservation Easement Area. The pasture and hay fields are currently being leased.

State of Improvements:

No structures are located on the Easement Area. Current human modifications include managed hay fields and livestock pasture; two soil access roads as shown on the plat of survey; power and telephone lines as shown on the plat of survey; an abandoned electric line right-of-way, including downed poles and wire, running parallel to and south of Carl Slagle Road in the upland forest on the CWMTF Conservation Easement Area; electric and barbed wire fencing along the perimeter of several pastured areas; minor incidentals (feed troughs, etc) associated with cattle farming; and a very primitive deer hunting stand in a large tulip-poplar just south of Carl Slagle Road and just west of Cartoogechaye Creek. An abandoned sickle-bar hay mower is sitting in the north central section of the CWMTF Conservation Easement Area, just south of Carl Slagle Road and just east of the soil road shown on the plat of survey.

Cattle are accessing Slagle Branch near the northeast corner of Agricultural Zone 3. Agricultural Zone 3 has been drained; just upstream of the mouth of Slagle Branch, a 6" HDPE subsurface drainage pipe empties into Cartoogechaye Creek.

Failed tree revetments were observed on the east bank of Cartoogechaye Creek in the meander bend south of Carl Slagle Road. Seedlings had been planted within a buffer area as part of this bank stabilization project. Banks remain unstable and the east bank of the creek severely lacks an adequate woody riparian buffer.

Water Quality Species:

Cartoogechaye Creek flows along the Easement Area for 2,950 feet. The Creek is designated by the NC Wildlife Resources Commission as Wild Trout Waters and is identified by the North Carolina Natural Heritage Program as Significant Aquatic Habitat. Two Federally-listed aquatic species occur in the creek, the olive darter (*Percina squamata*; S2/G3) and the Little Tennessee River crayfish (*Cambarus georgiae*; S2S3/G1), as well as two State Species of Concern, the yellowfin shiner (*Notropis lutipinnis*; S3/G4Q) and the hellbender salamander (*Crypto-branenus alleganiensis*; S3/G3G4).

The former channel of Cartoogechaye Creek, which was changed in the early 20th century to facilitate the expansion of a water-powered grist and furniture mill, lies to the west of the existing channel on the CWMTF Conservation Easement Area and now appears to be a functioning wetland ecosystem. This Area offers potential habitat for the bog turtle (*Glyptemys muhlenbergii*; S2/G3), a Federally- and State-listed Threatened terrestrial species that is associated with riverine habitat along Cartoogechaye Creek. The smallest turtle in North America, *G. muhlenbergii* occupies wetland bogs, swamps, and marshy meadows such as this riparian wetland area.