
Prepared by:
Mississippi River Trust
Attn: Brian W. Ballinger
Post Office Box 15
Stoneville, MS 38776
(662) 686-3375

Return to:
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INDEXING INSTRUCTIONS: (Include Section(s), Township(s), Range, County and State.)

GRANT OF CONSERVATION EASEMENT

This grant of Conservation Easement ("Conservation Easement" or "Easement") is made this the ____ day of _____, 20__, by the "Grantor"

Name

Address

Telephone No.

in favor of the "Grantee:

Mississippi River Trust
P. O. Box 15
Stoneville, MS 38776
Telephone No. (662) 686-3375

An eligible Mississippi non-profit corporation qualified to do business in the State of Arkansas.

WHEREAS, the Grantor is the sole owner in fee simple of certain real property located in _____ County, _____ containing _____ +/- acres, respectively, and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Protected Property"); and

WHEREAS, the Grantee is a Mississippi non-profit corporation, qualified to do business in Arkansas, having a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter called the "Code"), which has been established as a public charity for the purpose of preserving and conserving natural habitats and environmentally sensitive areas and for other charitable, scientific and educational purposes and which is a "qualified organization" under Section 170(h)(3) of the Code; and

WHEREAS, the Protected Property possesses significant natural areas of significant ecological, wildlife, wildlife habitat, scenic and aesthetic value, and has substantial value and potential as open space, natural, ecological and scientific resource

(collectively “conservation values”) of great importance to Grantor, to Grantee, and to the American public; and

WHEREAS, the specific conservation and ecological values of the Protected Property on the date of this Easement are documented in a Baseline Documentation Report (“Baseline Documentation”), dated [REDACTED], 20[REDACTED] a copy of which is on file with both the Grantor and the Grantee. Both parties agree the Baseline Documentation provides an accurate representation of the Protected Property and the condition of the same as of the date of this Easement as required by Treasury Reg. 1.170A-14(g)(5), and is intended to serve as an objective informational baseline for monitoring compliance with the terms of this Conservation Easement. The Baseline Documentation may include, but is not required to so include, the following items: (i) The appropriate survey maps from the United States Geological Survey showing the boundary lines of the Protected Property and other contiguous or nearby protected areas; (ii) A map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings, fences, or gravel pits), vegetation and identification of flora and fauna (including, for example, rare species locations, animal breeding and roosting areas, and migration routes), land use history (including present uses and recent past disturbances), and distinct natural features (such as large trees and aquatic areas); (iii) An aerial photograph of the Protected Property at an appropriate scale taken as close as possible to the date the donation is made; and (iiii) On-site photographs taken at appropriate locations on the Protected Property; and other documentation possessed (at present or in the future) by the Grantor which the Grantor shall make available to the Grantee, its successors and assigns, which documentation establishes the conditions of the Protected Property at the date of this Easement as required by Treasury Reg. 1.170A-14(g)(5).

WHEREAS, the Grantor intends to preserve the open space and conserve and protect the land, water, forest, and wildlife resources on the Property; and

WHEREAS, the Grantor and Grantee desire to ensure, through the use of a Conservation Easement, the perpetual protection of the Protected Property in its current primarily undeveloped and relatively natural state, and to permit only such future uses of the Protected Property as are consistent with that purpose including, in particular, uses that promote habitat maintenance, management, diversity and enhancement for both forest and wildlife species; and

NOW, THEREFORE, the Grantor, in consideration of the foregoing recitations and of the mutual covenants, terms, conditions and restrictions hereinunder set forth and as an absolute and unconditional gift, does hereby freely give, grant, bargain, donate and convey unto the Grantee, and its successors and assigns, the Conservation Easement over the Protected Property subject to the covenants, conditions and restrictions hereinafter set forth which will run with the land and burden the Protected Property in perpetuity.

1. PURPOSE

The primary purpose of this Conservation Easement is to ensure the perpetual protection of the Protected Property in its open, primarily undeveloped and relatively natural timbered state. To that end, subject to the limited exceptions set forth herein, the Grantors intend that this Conservation Easement shall permit only such future uses of the Protected Property as are consistent with and in furtherance of that primary purpose, including in particular, uses that promote habitat maintenance, management, diversity and enhancement for both forest and associated natural resources. The Grantor recognizes that numerous species of trees and wildlife presently exist on the Protected Property. The Grantor's objective or intention is not to preserve or maximize a particular tree or wildlife species. To the contrary, by encouraging a diverse forest and wildlife habitat, the Grantor seeks to conserve and protect the land, water, forest, and wildlife resources on the Protected Property as a whole.

Grantor intends that this Easement will confine the use of the Property to such activities, including, without limitation, those involving open green space uses and wildlife oriented recreation by the Grantor and its guests that are not inconsistent with the purpose of this Conservation Easement and long-term timber management consistent with a Forest Management Plan based on best management practices. The collective purpose of this easement is to forever conserve the protected property for the following purposes:

1. wildlife habitat protection, and ecological value protection;
2. rare and endangered species habitat protection;
3. to protect the open condition and green space of the Protected Property;
4. exemplary natural communities and biological diversity protection;
5. natural, scenic, scientific, historical, and archaeological features protection;
6. water quality, wetlands, and riparian values protection including the maintenance of soil quality;
7. manage, maintain, and enhance the Protected Property for wildlife habitat;
8. to allow compatible outdoor recreational and educational uses
9. to assure the sustained, natural capacity of the soils to support healthy, vigorous forest growth and agricultural uses
10. to allow agricultural and farming uses that will enhance wildlife habitat following best management practices, and forest management designed to maintain a healthy and biologically diverse forest that supports a full range of flora and fauna, and

11. to limit adverse aesthetic and ecological impacts, particularly in wetland areas;

12. the protection of any other characteristic, resource and/or use of the Protected Property that constitute Conservation Values as shown and defined in the Baseline Document Report.

2. RIGHTS OF GRANTEE

To accomplish the purpose of the Conservation Easement, the following rights are hereby conveyed to Grantee:

- (a) *Protection.* The right to protect the conservation values of the Protected Property; and
- (b) *Prevention.* The right to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Conservation Easement and to require the restoration of any acres or features of the Protected Property that may be damaged by any inconsistent activity or use; and
- (c) *Right of Entry and Access.* The right to enter upon the Protected Property at reasonable times acceptable to Grantor in order to monitor Grantor's (or future owner's) compliance with and otherwise enforce the terms of this Conservation Easement, upon reasonable written notice to Grantor (or future owners). The right of entry and access herein described does not extend to the public or any person or entity other than the Grantee, its agents, employees, successors and or assigns and shall not unreasonably interfere with Grantor's (or future owner's) use and quiet enjoyment of the Protected Property; and
- (d) *Signage.* The right to erect Conservation Easement Boundary signs around the perimeter of the property; and
- (e) *Publicity.* The right to publicize acceptance of the Conservation Easement through media including, but not limited to, radio, television, newspaper, magazine, and Grantee's own promotional literature.

3. GRANTOR'S RESERVED RIGHTS

- 3.1 *In General.* Any activity on, or use of, the Protected Property not inconsistent with the purposes of this Conservation Easement, and not specifically prohibited is permitted. The Conservation Easement shall permit the continuation of pre-existing uses of the Protected Property that do not conflict with (and in fact may be in furtherance of) the conservation purposes of this Conservation Easement and shall permit certain future

uses of the Protected Property, including roads and trails, timber harvest, forest management, hunting, fishing, and trapping, and other consumptive and non-consumptive outdoor recreational uses.

3.2 *Enumeration.* Notwithstanding the Restrictions as follow in Paragraph 4 herein, Grantor reserves for Grantor, its successors and assigns, the following Reserved Rights, which may be exercised upon providing prior written notice to Grantee, except where expressly provided otherwise. Written notice shall be provided, where possible, thirty (30) days in advance, and shall in all cases describe the nature, scope, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to monitor such activity.

(a) *Vegetation and Timber.* The right to plant, cut manage or clear vegetation for habitat protection, fire protection, and to perform unpaved trail and road maintenance, or otherwise to conserve the present condition of the Protected Property. The right to cut and/or harvest dead or diseased trees and trees that present hazards to persons or property and to clear brush and trim trees affecting structures and residences within the immediate vicinity of same. The right to conduct timber harvest and forest management activities in compliance with the forest management plan prepared by a registered forester and which is approved by both the Grantor and Grantee (the "Forest Management Plan"). The initial Forest Management Plan is included in the Baseline Documentation and may be amended from time to time by the mutual consent of the Grantor and Grantee based on the State of Arkansas Forestry Commission's Best Management Practices. Notwithstanding the foregoing, clear cutting of timber is strictly prohibited unless approved pursuant to the Forest Management Plan then in effect; and

(b) *Roads and Trails.* The right to construct and maintain unpaved roads and trails on the Protected Property for such purposes as may be permitted by this Conservation Easement. The right to periodically obtain on-site fill material from locations acceptable to Grantor and Grantee for the repair and maintenance of the roads on the Protected Property. Maintenance of roads shall be limited to normal practices for non-paved roads, such as the removal of dead vegetation, necessary pruning or removal of hazardous trees and plants, application of permeable materials necessary to correct erosion, placement of culverts, water control structures, and bridges, and maintenance of roadside ditches; and

- (c) *Dams and Levees.* The right to repair and construct dams and levees to the extent necessary to protect or enhance the conservation values of the Property; and
- (d) *Outdoor Recreational Activities.* The right to engage in any outdoor recreational activities. The right of Grantor, Grantor's family members and Grantor's guests to hunt and fish on the Protected Property. There shall be no commercial hunting or fishing on the Protected Property. Commercial hunting and fishing shall be herein defined as that type of activity undertaken solely for the economic gain and profit of the Grantor. The leasing of hunting and fishing rights for less than one year by the Grantor is not herein considered commercial in nature since such revenue and scope of said activity has minimal if any effect on the natural resources of the Protected Property and said leasing fees, if any, are minimal and do not exceed the amount necessary for upkeep and improvement of the Protected Property itself. Additionally, it is mutually understood and agreed that maintenance and control of white-tailed deer, beaver and feral hogs via legal hunting/trapping methods are necessary to prevent over-population and subsequent ecological damage to the subject property and the overall conservation values of same; and
- (e) *Subdivision.* The Protected Property may not be subdivided; and

-OR-

The Protected Property may be subdivided into a maximum of ____ () separate tracts of land, consisting of a minimum of _____ acres; and

- (f) *Structures.* The right to maintain and replace the existing and additional permitted structures at the same location with structures of like size and function. In addition to the existing structures,
 - (1) The right to construct up to a maximum total of ____ (__) single-family housing units (hereafter "Housing Units") and associated power supply, wastewater treatment systems and associated utilities and improvements, garages, ancillary non-residential structures and other improvement/accessories as are customary to like residences in the area of the Protected Property (hereinafter "Related Structures") (collectively, Housing Units and Related Structures are referred to as "New Structures"). Each Housing Unit shall not exceed ____ (__) feet in height and _____ square feet in heated space. Each of the

Housing Units shall be located on a maximum of _____
() acre lot. Therefore, there shall be a maximum of _____
() _____ () acre lots on which new structures shall be
permitted. Each Related Structure shall not exceed
_____ () feet in height and _____ square feet in
area and shall be located within the same _____ () acre
lot as the Housing Unit. Prior to the commencement of
construction, the Grantor and Grantee shall mutually agree
on the locations of the lots and New Structures; and

- (2) The right to construct, maintain, repair and replace stands and blinds for hunting and/or wildlife viewing which dimensions shall not exceed 128 square feet in area; and
 - (3) The right to construct, maintain, repair and replace _____
() farm/tractor sheds which dimensions shall not exceed
_____ square feet in area.
- (g) *Agriculture.* No farming for profit is allowed; only farming for wildlife enhancement; and

-OR-

The right to engage in agricultural and farming activities as undertaken at the time of the placement of the Conservation Easement and other future agricultural and farming activities providing the activities are conducted in a manner consistent with the purpose of the Conservation Easement; and

- (h) *Carbon Credits and Government Assistance Programs.* The right to participate in future conservation, preservation or mitigation programs in existence from time to time involving ecological assets, including, but not limited to, the Conservation Reserve Program, the Wetland Reserve Program, the Wildlife Habitat Incentives Program, the Partners For Wildlife Program, carbon sequestration credits, endangered species credits, water quality credits and ground water credits on the Protected Property; and
- (i) *Other.* The right to perform any activity or activities not inconsistent with the conservation purpose and intent of this Conservation Easement and not inconsistent with Paragraph 3.1 of this document.

4. PROHIBITED USES

Subject to the reserved rights set forth above, neither Grantor nor its successors shall perform or permit the following acts or uses on, over or under the Protected Property.

- (a) Cutting or harvesting of timber on or from the Protected Property is prohibited except as permitted in Paragraph 3.2 (a); and
- (b) Commercial (with the exception of allowed agricultural uses that may be categorized as commercial), residential development or industrial uses of the Protected Property; and
- (c) Agricultural uses of the Protected Property that are not related to or are contrary to the uses of the Protected Property permitted by the Conservation Easement and, except as specified in Paragraph 3.2(g); and
- (d) The permanent placing, filing, storing, or dumping on the Protected Property of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other such substance not generated on the Protected Property, or the installation of the underground storage tanks not already in place at the time of execution of this Conservation Easement and noted at the time of execution and noted in the Baseline Documentation except as specified in Paragraph 3.2(f); and
- (e) Subdivision of the Property, except as permitted in Paragraph 3.2 (e); and
- (f) Surface mining and any other mining techniques that will significantly harm the conservation values protected by this Easement; and
- (g) Construction or placing of buildings, bridges, or other structures including, but not limited to, transmission or receiving towers, energy facilities, or water tanks on the Protected Property; the location of mobile homes, house trailers, temporary shelters or vehicles of any sort providing living quarters on the property, except as specified in Paragraph 3.2(f). The restriction is not intended to apply to temporary parking of recreational vehicles so long as no commercial use is made of such recreational vehicles; and
- (h) Building of any new roads, nor widening of existing roads except as permitted in Paragraph 3.2(b); and
- (i) There shall be no long-term leasing of recreational or any other rights on the Protected Property and there shall be no commercial hunting or fishing on the Protected Property; except that this paragraph is not intended to prohibit hunting and fishing leases, hunting and fishing licenses or other

similar hunting and fishing agreements as such comply with Paragraph 3.2(d) of this Act of Donation of Conservation Easement; and

- (j) The parties recognize that this Conservation Easement cannot address every circumstance that may arise in the future. Therefore, the parties agree upon the intent and purpose of this Conservation Easement. The Protected Property will be retained in perpetuity predominantly in its natural, forested and scenic condition, for conservation purposes, to prevent any use of the Protected Property which will impair significantly or interfere with the conservation values of the Protected Property, its wildlife habitat, natural resources or associated ecosystems and to prevent any use which would permit destruction of other significant conservation interests. Any use or activity not reserved in Paragraph 3.0 or which is inconsistent with the intent and purpose of this Conservation Easement is prohibited.

5. SUBSURFACE MINERAL EXTRACTION

Grantor warrants that it holds no rights to subsurface minerals. Should the mineral rights holder require access to the property, Grantor will use best efforts to execute an agreement that mandates that any subsurface exploration or development may be carried on only in such manner and with the use of such methods so that any impact on the surface of the Protected Property will not be greater than a limited localized impact, and no permanent destruction of any of the conservation values of the Protected Property may occur. In any case, Grantor is responsible and shall remediate any damage or impact to the conservation values of the Protected Property.

-OR-

Grantor reserves the right to explore for and develop subsurface mineral (with the exception of gravel, sand and salt), including oil, gas and geothermal energies and pressures from the Property. Such subsurface exploration or development may be carried on only in such manner and with the use of such methods so that any impact on the surface of the Property will not be greater than a limited localized impact, and no permanent destruction of any of the conservation values of the Property may occur.

6. NOTICE

Grantor agrees to give Grantee notice in writing prior to conducting any activity pursuant to Paragraphs 3.2 (a & f) and 5. The notice shall describe the nature, scope, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to monitor such activity.

7. GRANTEE'S REMEDIES

In the event Grantee shall determine that the terms and conditions of the Conservation Easement are being violated, then Grantee shall give Grantor notice of said violation and Grantor shall have 30 days to correct said violation or to show Grantee why it is not in violation of this Conservation Easement. Subject to such notice, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, *ex parte* if necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Conservation Easement or injury to any conservation values protected by this Conservation Easement, including damages for the loss of environmental values, and to require (to the extent practicable) the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Property, Grantee may pursue its remedies under this paragraph with notice to Grantor as stated above. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequate or otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

7.1 *Cost of Enforcement.* Any reasonable cost incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, costs of suits and attorney's fees, and any cost of restoration necessitated by Grantor's Acts, in violation of the terms of this Conservation Easement, shall be borne by Grantor or its successors.

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

7.3 *Acts Beyond Grantor's Control.* Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including without limitation, trespass by third persons, flood, fire, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes.

8. HOLD HARMLESS

Grantors hereby release and agree to hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (ii) the violation or alleged violation of, or other failure to comply with any state, federal, or local law, regulation, or requirement, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Protected Property; (iii) the presence or release in, on, from, or about the Protected Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties; and (iv) the obligations, covenants, representations, and warranties contained in within this Conservation Easement.

9. PUBLIC ACCESS AND VIEWING

No right of access to any portion of the Protected Property is conveyed by this Conservation Easement, except as expressly provided herein. Public viewing of the property is by _____ (Highway number(s), road name(s), etc).

10. COSTS, LIABILITIES AND TAXES

Grantor, its successors and assigns shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of general liability insurance coverage, but excepting any taxes assessed directly to or upon Grantee.

11. PERCENTAGE INTEREST IN THE FAIR MARKET VALUE OF THE PROPERTY

This Section is applicable only to the determination of compensation payable to Grantee in the event of a termination by condemnation or judicial extinguishment of this Conservation Easement pursuant to Section 12; the Grantee is not entitled to receive any portion of the proceeds arising out of a sale, conveyance or other transfer of the fee simple title to the Protected Property to a third party. The value of the Protected Property at the date of establishment of this Conservation Easement shall be the value established by the Grantor's qualified appraisal taken for that purpose (pursuant to Treasury regulation Section 1.170A-14 or its successor regulation) for federal income tax purposes ("Appraisal").

The parties agree that the compensation payable to Grantee in the event of termination or judicial extinguishment of this Conservation Easement pursuant to Section 12, shall be applicable only if Grantor actually receives proceeds from such termination or extinguishment and then shall be the amount determined by dividing the fair market value of the Conservation Easement shown in the Appraisal by the fair market value of the Protected Property prior to this Conservation Easement, as shown in the Appraisal. That quotient shall then be multiplied by the fair market value of the Protected Property at the time of termination or extinguishment, and reduced by the value of any improvements to the Protected Property made after the date of the Appraisal.

For the purposes of this Section 11, the ratio of the value of the Conservation Easement to the value of the Protected Property unencumbered by the Conservation Easement shall remain constant, and the percentage interests of Grantor and Grantee in the fair market value of the Protected Property thereby determinable shall remain constant.

12. EXTINGUISHMENT

If circumstances in the future that render the purposes of this Conservation Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Protected Property in connection with such termination or extinguishment and after the satisfaction of prior claims and net of any costs or expenses associated with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made after the date of this grant, which amount shall be reserved to grantor) in accordance with their respective percentage interest in the fair market value of the Property. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this grant.

12.1 *Condemnation.* If all or a part of the Protected Property Conservation Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantor and Grantee shall be respectively entitled to compensation in accordance with applicable law.

13. AMENDMENT

If circumstances arise under which an amendment to or modifications of this Conservation Easement would be appropriate, Grantor and Grantee may by mutual agreement jointly amend this Conservation Easement; provided that no amendment shall be made that will adversely affect that qualification of this Conservation Easement, or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended. Any such amendment shall be consistent with the purposes of this Conservation Easement, shall not affect its perpetual duration, shall not permit additional development or improvements permitted by this Conservation Easement on its effective date, and shall not permit any impairment of the significant conservation values of the Protected Property. Any such amendment shall be recorded in the official land records of [REDACTED] County, [REDACTED]. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate any amendment.

14. ASSIGNMENT

The benefits of this Conservation Easement shall be in gross and shall not be assignable by Grantee, except:

- (a) If as a condition of any assignment, Grantee requires that the purpose of this Conservation Easement continues to be carried out; and
- (b) If the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, as an eligible donee to receive this Conservation Easement directly.
- (c) In the event Grantee ceases to exist or exists but no longer as a tax exempt, non-profit organization, qualified under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended, this Easement shall automatically become vested in a tax exempt, non-profit organization qualified under Section 501 (c) (3) and 170 (h) (3) of the Internal Revenue Code of 1986, as amended, and which has experience in holding similar conservation easements as designated by the then owner of the Property.

In any assignment of this Conservation Easement by the Grantee, the Grantee agrees to give preference to a not-for-profit conservation corporation qualified to do business in the State of Arkansas unless otherwise agreed to by Grantor and Grantee.

15. TRANSFERS

Grantor agrees to incorporate by reference the terms of this Conservation Easement in any deed or other legal instrument by which Grantor transfers any interest in all or a portion of the Protected Property including, without limitations, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any such interest at least forty-five (45) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

16. NOTICES

Any notice, demand request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

TO GRANTOR:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

(Name)
(Address)

(Phone)

TO GRANTEE:

Mississippi River Trust
P.O. Box 15
Stoneville, MS 38776
Phone (662) 686-3375

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

17. FILINGS

Grantee shall record this instrument and any amendments in a timely fashion in the official land deed records of [Redacted] County, [Redacted], and shall re-record it any time as may be required to preserve its rights under this Conservation Easement. Further, the Grantor shall file a certified copy of this Conservation Easement together with a Notice as to the date and place of its recordation to the Grantee, Attorney General of the State of Arkansas and the Arkansas Game and Fish Commission.

18. EFFECTIVE DATE

Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Conservation Easement is recorded in the official land records of _____ County, _____, after all signatures required by law have been affixed hereto.

19. GENERAL PROVISIONS

- (a) *Controlling Law.* The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of Arkansas.
- (b) *Liberal Construction.* Notwithstanding any general rule of construction to the contrary, this Conservation Easement shall be liberally construed in favor of the grant to effect the purposes of this Conservation Easement and the policy and purposes of Grantee. If any provision herein is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- (c) *Severability.* Should a court of competent jurisdiction find any separable part of this Conservation Easement void or unenforceable, the remainder shall continue in full force and effect.
- (d) *Entire Agreement.* This instrument is the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussion, negotiations, understandings or agreement relating to the Conservation Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Paragraph 13.
- (e) *Successors and Assigns.* The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon and inure to the benefit of Grantor, Grantee, and their respective personal representatives, heirs, successors and assigns, and shall continue as a Conservation Easement running in perpetuity with the Protected Property.
- (f) *Failure of Grantee.* If at any time Grantee ceases to be a qualified Grantee and if, within a reasonable period of time after the occurrence of one of these events, the Grantee fails to make an assignment pursuant to Paragraph 14, then the Grantee's interest shall become vested in another qualified Grantee in accordance with an appropriate proceeding in a court of competent jurisdiction.
- (g) *Warranty.* Grantor warrants that it owns the Protected Property in fee simple and that the Grantor either owns all interests in the Property which

may be impaired by the granting of this Conservation Easement or that there are no outstanding mortgages, tax liens, encumbrances, or other interests in the Protected Property which have not been expressly subordinated to this Conservation Easement, other than any outstanding mineral interests referenced at Paragraph 5 herein. Grantor warrants that there is no pending or threatened litigation in any way affecting, involving, or relating to the Protected Property. Grantor further warrants that Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Conservation Easement.

- (h) *No Extinguishment through Merger.* Grantor and Grantee agree that should the Grantee, or any successor in interest to the Grantee, come to own all or a portion of the fee interest in the Protected Property subject to this Conservation Easement, (i) said owner shall observe and be bound by the obligations and restrictions imposed upon the Protected Property by this Conservation Easement, (ii) this Conservation Easement shall not be extinguished through the doctrine of merger in whole or in part in view of the public interest in enforcement, and (iii) said owner shall promptly assign the Grantee interest in the Conservation Easement to another entity or person qualified to hold conservation easements.
- (i) *Counterpart Execution.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

TO HAVE AND TO HOLD, unto the Grantee, its successors and assigns, forever. The covenants agreed to and the terms, restrictions, and purposes imposed as aforesaid shall be binding upon Grantor, his personal representatives, heirs, successors and assigns, and shall continue as a servitude running with the land in perpetuity with the property.

[Signatures appear on the following pages.]

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement on the date written above.

_____, Grantor

BY: _____

_____ (Title)

STATE OF _____

COUNTY OF _____

PERSONALLY appeared before me, the undersigned authority in and for said county and state, on this the ____ day of _____, 20__, within my jurisdiction, the within named _____, who acknowledged that he is a Manager of _____, an _____ limited liability company, and for and on behalf of the said limited liability company, and as its act and deed, he executed, signed, and delivered the above and foregoing instrument on the day and year therein set forth after first having been duly authorized by said limited liability company so to do.

-OR-

...executed, signed and delivered the above and foregoing instrument on the day and year therein set forth.

Notary

My Commission Expires:

IN WITNESS WHEREOF, Grantee has executed this Conservation Easement on the date written above.

MISSISSIPPI RIVER TRUST, Grantee

BY: _____
Brian W. Ballinger, Director

STATE OF MISSISSIPPI

COUNTY OF WASHINGTON

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, on the ____ day of _____, 2015, within my jurisdiction, the within named Brian W. Ballinger, who acknowledged that he is a Director of the Mississippi River Trust, a Mississippi non-profit corporation, and that for and on behalf of the said corporation, and as its act and deed, he executed the above and foregoing instrument, after having first been duly authorized by said corporation so to do.

Notary

My Commission Expires:

EXHIBIT A
LEGAL DESCRIPTION OF THE PROTECTED PROPERTY

EXHIBIT B
MAP OF THE PROTECTED PROPERTY