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FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
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The Law Office of Susan M. Lynch
P. O. Box 280
Pinehurst, NC 28370
Drafted by Susan M. Lynch

STATE OF NORTH CAROLINA

CONSERVATION EASEMENT

MOORE COUNTY
SPO File Number 63-AA

THIS CONSERVATION EASEMENT DEED, made this 15th day of Nov., 2006, by McKean Brothers Nominee Trust, 1999 u/d/t dtd. 9/7/1999, John W. McKean, Trustee, Grantor, to the SANDHILLS AREA LAND TRUST, INC., a North Carolina Non-Profit Corporation, Grantee, whose mailing address is PO Box 1032 Southern Pines, NC 28388. The designations Grantor and Grantee 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.

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of N.C.G.S.§143-214.8 et seq., the State of North Carolina has established the Ecosystem Enhancement Program (formerly known as the Wetlands Restoration Program) within the Department of Environment and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, creating and preserving wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; and

WHEREAS, the State of North Carolina is qualified to be the Grantee of a Conservation Easement pursuant to N.C.G.S.§121-35; and

WHEREAS, the Ecosystem Enhancement Program in the Department of Environment and Natural Resources has approved acceptance of this instrument; and

WHEREAS, the Department of Environment and Natural Resources, the North Carolina Department of Transportation, and the United States Army Corps of Engineers, Wilmington

District entered into a Memorandum of Agreement (MOA) duly executed by all parties in Greensboro, NC on July 22, 2003. This MOA recognizes that the Ecosystem Enhancement Program is to provide the compensatory mitigation by effective protection of the land, water and natural resources of the State by restoring, enhancing and preserving ecosystem functions; and

WHEREAS, the acceptance of this instrument for and on behalf of the State of North Carolina was granted to the Department of Administration by resolution as approved by the Governor and Council of State adopted at a meeting held in the City of Raleigh, North Carolina, on February 8, 2000; and

WHEREAS, pursuant to the provisions of N.C.G.S.§ 143-214.8 two of the components of the Ecosystem Enhancement Program are (1) restoration and perpetual maintenance of wetlands, riparian areas, and surface waters and (2) land ownership and management; and

WHEREAS, Grantor owns in fee simple certain real property situated, lying, and being in Moore County, North Carolina (the "Property") and being more particularly described as that certain parcel of land containing approximately 2121.5 acres, more or less and being conveyed to the Grantor by deed as recorded in Deed Book 1574 at page 74 and Deed Book 414 at page 700 of the Moore County Registry, North Carolina; and further identified as PIN #853104832255, PIN #853104818680, and, PIN # 853000883934. The Property consists of wetlands, stream channels, riparian land including wildlife habitat and land of importance to the Grantor and the people of North Carolina.

WHEREAS, Grantor is willing to grant a Conservation Easement over the herein described areas of the Property, thereby restricting and limited the use of the included areas of the Protected Property to the terms and conditions and purposes hereinafter set forth, and Grantee is willing to accept such easement. This Conservation Easement shall be for the protection and benefit of the waters of Deep Creek, Sandy Run, and their tributaries.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, over a described area of the Property, referred to hereafter as the "Easement Area", for the benefit of the people of North Carolina, and being all of the tract of land containing 95.39 acres more or less as shown on a plat of survey entitled "Conservation Lands for Sandhills Area Land Trust, Inc., on the Lands of McKean Brothers" dated August 2006 and field work performed February-May 2006 , certified by Jeffrey L. Green, PLS and recorded in Map Book 12 at page 152 and 153 , in the Moore County Registry and Map Book 13 at page 424 (revised), in the Moore County Registry. The tract being more particularly described in attached Exhibit "A".

The purposes of this Conservation Easement are to maintain, restore, enhance, create and preserve wetland and/or riparian resources in the Easement Area that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Easement Area in its natural condition, consistent with these purposes; and to prevent any use of the Easement Area that will

significantly impair or interfere with these purposes. To achieve these purposes, the following conditions and restrictions are set forth:

I. DURATION OF EASEMENT

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

II. GRANTOR RESERVED USES AND RESTRICTED ACTIVITIES

The Easement Area shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Easement Area by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee. The following specific uses are prohibited, restricted, are reserved as indicated: The woven wire fence located approximately 36 feet north of the property line between the Grantor and adjacent landowner, Baerje, as shown on the survey entitled "Conservation Easement for Sandhills Area Land Trust prepared by Jeffrey L. Green, PLS and recorded in Map Book 13, page 424, Moore County Registry is excluded from the Conservation Easement. The repair, maintenance, relocation, demolition, etc. of said fence shall not be responsibility of the Grantee and any of its successors and/or assigns.

A. Recreational Uses: Grantor expressly reserves the right to undeveloped recreational uses, including hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited, except as they are used for management, maintenance, or stewardship purposes and on existing trails, paths, or roads.

B. Educational Uses: The Grantor reserves the right to engage in educational uses in the Easement Area not inconsistent with this Conservation Easement, and the right of access to the Easement Area for such purposes including organized educational activities such as site visits and observations. Educational uses of the property shall not alter vegetation, hydrology or topography of the site.

C. Vegetative Cutting. Except as related to the removal of non-native plants, diseased or damaged trees and vegetation that obstructs, destabilizes or renders unsafe the Easement Area to persons or natural habitat, all cutting, removal, mowing, harming, or destruction of any trees and vegetation in the Easement Area is prohibited.

D. Industrial, Residential and Commercial Uses: All are prohibited in the Easement Area.

E. Agricultural Use: All agricultural uses within the Easement Area including any use of cropland, waste lagoons, or pastureland are prohibited.

F. New Construction: There shall be no building, facility, mobile home, antenna, utility pole, tower, or other structure constructed or placed in the Easement Area.

G. Roads and Trails: There shall be no construction of roads, trails, walkways, or asphalt or concrete paving in the Easement Area. Existing roads or trails located in the Easement Area may be maintained by the Grantor in order to minimize runoff, sedimentation and for access to the interior of the Property for management, maintenance, stewardship, purposes or undeveloped recreational and educational uses of the Easement Area. Existing roads, trails, or paths, may be maintained with loose gravel or permanent vegetation to stabilize or cover surfaces.

H. Signs: No signs shall be permitted in the Easement Area except interpretive signs describing restoration activities and the conservation values of the Easement Area, signs identifying the owner of the Property and the holder of the Conservation Easement, signs giving directions, or signs prescribing rules and regulations for the use of the Easement Area may be allowed.

I. Dumping or Storing: Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances or machinery, or other material in the Easement area is prohibited.

J. Grading, Mineral Use, Excavation, Dredging: There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

K. Water Quality and Drainage Patterns: There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or diverting, causing, allowing or permitting the diversion of surface or underground water. No altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. All removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. In the event of an emergency interruption or shortage of other water sources, water from within the Easement Area may temporarily be used for good cause shown as needed for the survival of livestock and agricultural production.

L. Subdivision and Conveyance. Grantor voluntarily agrees that no subdivision, partitioning, or dividing of the underlying fee that is subject to this Easement Area is allowed. Unless agreed to by the Grantee in writing, any future conveyance of the fee for the Easement Area and the rights as conveyed herein shall be as a single block of property. Any future transfer of the fee simple shall be subject to this Conservation Easement. Any transfer of the fee is subject to the Grantee's right of ingress, egress, and regress over and across the Property to the Easement area for the purposes set forth herein.

M. Development Rights: All development rights are removed from the Easement area and shall not be transferred.

N. Disturbance of Natural Features: Any change, disturbance, alteration or impairment of the natural features of the Easement Area or any intentional introduction of non-native plants, trees and/or animal species is prohibited. The Grantor may request permission to vary from the above restrictions for good cause shown, provided that such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from the N.C. Ecosystem Enhancement Program, whose mailing address is 1655 Mail Service Center, Raleigh, NC 27699-1652.

III. GRANTEE RESERVED USES

A. **Ingress, Egress, Regress and Inspection.** The Grantee, its employees and agents successors and assigns, receive the perpetual right of general ingress, egress and regress to the Easement Area over the Property at reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Easement Area, in accordance with restoration activities or a long-term management plan. Access for conservation related efforts shall be over existing roads on the Parent tracts and other properties owned by the McKeans, their successors and assigns, to Roseland Road. Unless otherwise specifically set forth in this Conservation Easement, the rights granted herein do not include or establish for the public any access rights.

B. **Restoration Activites.** These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow.

IV. ENFORCMENT AND REMEDIES

A. Enforcement: To accomplish the purposes of this Conservation Easement, Grantee is allowed to prevent any activity within the Easement Area that is inconsistent with the purposes of this Easement and to require the restoration of such areas or features of the Easement Area that may have been damaged by such activity or use. Upon any breach of the terms of this Conservation Easement by Grantor, their successors or assigns that come to the attention of the Grantee, the Grantee shall, except as provided below, notify the Grantor, their successors or assigns in writing of such breach. The Grantor shall have ninety (90) days after receipt of such notice to correct the conditions constituting such breach. If the breach remains uncured after ninety (90) days, the Grantee may enforce this Conservation Easement by appropriate legal proceedings including damages, injunctive and other relief. The Grantee shall also have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Easement Area by acts which may be unlawful or in violation of this Conservation Easement; (b) to otherwise preserve or protect its interest in the Property; or (c) to seek damages from any appropriate person or entity. Notwithstanding the foregoing, the Grantee reserves the immediate right, without notice, to obtain a temporary restraining order, injunctive or other appropriate relief if the breach of the term of this Conservation Easement is or would irreversibly or otherwise materially impair the benefits to be derived from this Conservation Easement. The

Grantor and Grantee acknowledge that under such circumstances damage to the Grantee would be irreparable and remedies at law will be inadequate. The rights and remedies of the Grantee provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available to Grantee in connection with this Conservation Easement.

B. Inspection: The Grantee, its employees and agents, successors and assigns, have the right, with reasonable notice, to enter the Easement Area over the Property at reasonable times for the purpose of inspection to determine whether the Grantor, their successors or assigns are complying with the terms, conditions and restrictions of this Conservation Easement.

C. Acts Beyond Grantor's Control: Nothing contained in this Conversation Easement shall be construed to entitle Grantee to bring any action against Grantor, their successors or assigns, for any injury or change in the Easement Area caused by third parties, resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such causes.

D. Costs of Enforcement: Beyond regular and typical monitoring, any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, their successors or assigns, including, without limitation, any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by Grantor.

E. No Waiver: Enforcement of this Easement shall be at the discretion of the Grantee and any forbearance by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be deemed or construed to be a waiver by Grantee.

V. MISCELLANEOUS

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

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

C. Grantor shall notify Grantee in writing of the name and address and any party to whom the Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees to make any subsequent lease, deed, or other legal instrument by

which any interest in the Property is conveyed subject to the Conservation Easement herein created.

D. The Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof.

E. This Conservation Easement may be amended, but only in a writing signed by all parties hereto, and provided such amendment does not affect the qualification of the Conservation Easement or the status of the Grantee under any applicable laws, and is consistent with the purposes of the Conservation Easement.

F. The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable provided, however, that the Grantee hereby covenants and agrees that in the event it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified holder under N.C.G.S.§ 121-34 et seq. and §170(h) of the Internal Revenue Code, and the Grantee further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue in perpetuity the conservation purposes described in this documents.

VI. QUIET ENJOYMENT

Grantor reserves all remaining rights accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in only those uses of the Easement Area that are expressly reserved herein, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserves to the Grantor, and the Grantor's invitees and licenses, the right or access to the Easement Area, and the right of quiet enjoyment of the Easement Area.

TO HAVE AND TO HOLD the said rights and easements perpetually unto Grantee for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent Conservation Easement herein granted; that the same are free from encumbrances and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF the Grantor has hereunto set his hand and seal, the day and year first above written.

MCKEAN BROTHERS NOMINEE TRUST, GRANTOR

By: _____ (SEAL)
John W. McKean
Trustee for McKean Brothers Nominee Trust

NORTH CAROLINA
MOORE COUNTY

I certify that the following person personally appeared before me this day and ___I have personal knowledge of the identity of the principal or ✓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 driver's license or ___a credible witness has sworn to the identify 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:
Name of Principal(s) JOHN W. MCKEAN

Date: 11-15-06

Crystal Brown Marley
NOTARY PUBLIC
(NOTARIAL SEAL)

My Commission Expires: 3/21/09

CRYSTAL BROWN MARLEY
Printed or typed name of Notary Public

CRYSTAL BROWN MARLEY
NOTARY
PUBLIC
MOORE COUNTY, N.C.

Exhibit A

A Certain parcel of land located in Sandhills Township, Moore County, North Carolina and situated on the McKean Family lands recorded in Deed Book 1574 Page 54 in the Moore County Register of Deed Office, and particularly described as follows: Beginning at a capped Existing Iron Pipe, the South West corner of the McKean lands and a corner of the State of North Carolina "AA" Block;
said point lies
N 20°39'07" W, 1199.17' from a PK Nail set in the centerline Roseland Road over the centerline of Deep Creek;
Thence with the State of North Carolina line N 01°10'26" E a distance of 4289.20' to an Iron Pipe Set on line;
Thence continuing with the North Carolina line N 01°10'26" E a distance of 496.90' to an Existing Capped Iron Pipe, a corner between the State of North Carolina Block "AA" and the Hicks property;
Thence with the Hicks property and McKean property N 23°25'03" E a distance of 1590.11 to a an existing Light Wood Stake a common corner of McDonald, Carter, and McKean;
Thence with the McDonald line N 74°00'36" E a distance of 389.99' to an Iron Pipe Set in the McDonald and McKean line;
Thence continuing with the McDonald line N 74°00'36" E a distance of 704.17' crossing over Deep Creek to an Iron Pipe Set in the McDonald line, said Iron Pipe Set being located S 74°00'36" W 93.67' from an Existing Iron Pipe, a corner between McDonald and McKean;
Thence a new line S 34°10'18" E a distance of 144.64' to an Iron Pipe Set;
Thence a new line S 79°52'36" E a distance of 373.17' to an Iron Pipe Set;
Thence a new line S 36°27'41" E a distance of 600.49' to an Iron Pipe Set;
Thence a new line S 55°50'41" W a distance of 211.86' to an Iron Pipe Set;
Thence a new line N 89°24'50" W a distance of 682.83' to an Iron Pipe Set;
Thence a new line S 36°42'12" W a distance of 1321.88' to an Iron Pipe Set;
Thence a new line S 13°33'50" W a distance of 232.18' to an Iron Pipe Set;
Thence a new line S 23°16'05" W a distance of 1434.74' to an Iron Pipe Set;
Thence a new line S 38°32'44" W a distance of 334.55' to an Iron Pipe Set;
Thence a new line S 01°10'26" W a distance of 699.27' to an Iron Pipe Set;
Thence a new line S 49°18'38" E a distance of 221.81' to an Iron Pipe Set;
Thence a new line S 15°33'47" E a distance of 587.82' to an Iron Pipe Set;
Thence a new line S 12°09'11" E a distance of 801.39' to an Iron Pipe Set;
Thence a new line S 01°16'54" W a distance of 732.22' to an Iron Pipe Set in the Baerje line;
Thence with the Baerje line N 87°28'55" W a distance of 573.89' to a Capped Iron Pipe;
which is the point of beginning,
having an area of
95.39 acres

Jeffrey L. Green, PLS

NORTH CAROLINA PROFESSIONAL SEAL L-3972 LAND SURVEYOR JEFFREY L GREEN