

ATTACHMENT 1

ENVIRONMENTAL PROTECTION PROVISIONS

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The following conditions, restrictions, and notifications are to be included in the deed to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at Fort McClellan.

INCLUSION OF PROVISIONS:

The person or entity to whom the property is transferred shall neither transfer the property, lease the property, nor grant any interest, privilege, or license whatsoever in connection with the property without the inclusion of the environmental protection provisions contained herein, and shall require the inclusion of such environmental protection provisions in all further deeds, transfers, leases, or grant of any interest, privilege, or license.

NO LIABILITY FOR NON-ARMY CONTAMINATION:

The U.S. Army shall not incur liability for response action or corrective action found to be necessary after the date of transfer, in any case, in which the person or entity to whom the property is transferred, or other non-Army entities is identified as the party responsible for contamination of the property.

NOTICE OF THE PRESENCE OF ASBESTOS-CONTAINING MATERIALS (ACM) AND COVENANT:

- a. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials (“ACM”) have been found on the Property, as described in the EBS and in the Reisz Engineering Asbestos Surveys and Management Plans, FMC, Alabama. Except as provided for in (b) below, the ACM on the Property does not currently pose a threat to human health or the environment.
- b. Several buildings have been determined to contain ACM that may pose a threat to human health. Detailed information is contained in the EBS and referenced asbestos surveys (Attachment 2). The non-friable ACM can be managed in place. The friable ACM can be effectively managed in place, provided the proper precautions are taken to eliminate exposure of personnel to airborne asbestos. The U.S. Army has agreed to transfer the buildings to the Grantee, prior to remediation of asbestos hazards, in reliance upon the express representation and promise that the Grantee will, prior to use or occupancy of

said buildings, agree to undertake any and all abatement or remediation that may be required under applicable law or regulation. The Grantee acknowledges that the consideration for transfer of the Transferred Premises was negotiated based upon the Grantee's agreement to the provision contained in this Condition.

- c. The Grantee agrees that its use and occupancy of the Transferred Premises will be in compliance with all applicable laws relating to asbestos; and that the U.S. Army assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos or ACM on the Transferred Premises, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos found to be necessary on the Transferred Premises. The Grantee assumes no liability for damages for personal injury, illness, disability, death or property damage arising from any exposure or failure to comply with any legal requirements applicable to asbestos in any portion of the Transferred Premises arising prior to the U.S. Army's transferring of such portion of the Property to the Grantee pursuant to this Deed, or any disposal of any asbestos or ACM prior to the transfer of the Transferred Premises.
- d. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and EPA regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.
- e. The Grantee acknowledges that it has inspected the Property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto prior to accepting the responsibilities imposed upon the Grantee under this subcondition. The failure of the Grantee to inspect, or to be fully informed as to the asbestos condition of all or any portion of the Property, will not constitute grounds for any claim or demand against the United States, or any adjustment under this Deed.

- f. The Grantee further agrees to indemnify and hold harmless the U.S. Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, exposure to asbestos on any portion of the Property, to the Grantee or any future remediation or abatement of asbestos or the need therefore.

NOTICE OF THE POTENTIAL FOR PRESENCE OF POLYCHLORINATED BIPHENYL (PCB) AND COVENANT:

- a. PCBs have been used widely as nonflammable insulating fluid in transformers, capacitors, and other electrical equipment, such as fluorescent light ballasts. PCBs are harmful because once released into the environment they are persistent (do not breakdown into other chemicals) and bio-accumulate in organisms throughout the environment. EPA considers PCBs to be possible cancer-causing chemicals.
- b. PCBs at concentrations of 50 ppm or greater, when removed from service, must be stored and disposed according to regulations published in 40 CFR Part 761 Subpart D. The Grantee is hereby informed that fluorescent light ballasts containing PCBs may be present on the Property. These ballasts do not currently pose a threat to human health or the environment and are presently in full compliance with applicable laws and regulations.
- c. The Grantee agrees that its continued possession, use, and management of these ballasts (PCB Equipment) will be in compliance with all applicable laws relating to PCBs and PCB Equipment, and that the U.S. Army shall assume no liability for the future remediation of PCB contamination or damages for personal injury, illness, or disability or death to the Grantee, its successors or assigns, or to any other person, including members of the general public arising from or incident to future use, handling, management, disposition or any activity causing or leading to contact of any kind whatsoever with PCB Equipment. The Grantee agrees to be responsible for any remediation of PCB found to be necessary on the premises resulting from its use or possession thereof.

NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE:

- a. The Grantee is hereby informed and does acknowledge that all buildings on the Property that were constructed prior to 1978, are presumed to contain lead-based paint. Lead from

paint, paint chips, and dust can pose health hazards if not managed properly. Exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

- b. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the EBS and attached LBP Risk and Assessment Survey Reports (Attachment 3). The Grantee has been provided with the federally approved pamphlet on lead poisoning prevention. The Grantee hereby acknowledges receipt of all of the information described in this subparagraph.
- c. The Grantee acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this document.
- d. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property (means dwelling units, common areas, building exterior surfaces, and any surrounding lands, including outbuildings, fences, and play equipment affixed to the land, available for use by residents, but not including land use for agricultural commercial, industrial, or other non-residential purposed, and not including paint on the pavement of parking lots, garages, or roadways and buildings visited regularly by the same child, 6 years of age or under, or at least two different days within any week, including day-care centers, preschools and kindergarten classrooms), without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X).

The Grantee shall, after consideration of the guidelines and regulations established pursuant to Title X: (1) Perform a reevaluation of the Risk Assessment if more than 12 months have elapsed since the date of the last Risk Assessment; (2) Comply with the joint HUD and EPA Disclosure Rule (24 CFR 35, Subpart H, 40 CFR 745, Subpart F), when applicable,

by disclosing to prospective purchasers the known presence of lead-based paint and/or lead-based paint hazards as determined by previous risk assessments; (3) Abate soil-lead hazards in pre-1978 residential real property, in accordance with the procedures in 24 CFR 35; (4) Abate lead-soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property; (5) Comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L); (6) Perform the activities described in this paragraph within 12 months of the date of the lead-based paint risk assessment and prior to occupancy or use of the residential real property; and (7) Send a copy of the clearance documentation to the Grantor.

In complying with these requirements, the Grantee covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes. The Grantee covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.

The Grantee acknowledges that the seller of any interest in Residential Real Property is required to provide the buyer with any information on the LBP hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known LBP hazards.

- e. The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards on the Property if used for residential purposes.
- f. The covenants, restrictions, and requirements of this Section shall be binding upon the Grantee, its successors and assigns and all future owners and shall be deemed to run with the land. The Grantee on behalf of itself, its successors and assigns covenants that it will include and make legally binding, this Section in all subsequent transfers, leases, or conveyance documents.

NOTICE OF THE POTENTIAL FOR THE PRESENCE OF ORDNANCE AND EXPLOSIVES AND COVENANT TO REMOVE ORDNANCE AND EXPLOSIVES:

Fort McClellan is a former military installation with a history of OE use and, therefore, there is a potential for OE to be present on the Property. Based on a review of existing records and available information, none of the [buildings or] land proposed for transfer is known to contain unexploded ordnance (UXO). In the event the JPA, its successors, and assigns, should discover any ordnance on the Property, it shall not attempt to remove or destroy it, but shall immediately notify the Calhoun County Sheriff's Department and competent Grantor or Grantor designated explosive ordnance personnel will be dispatched promptly to dispose of such ordnance at no expense to the Grantee.

Ordnance and Explosives may be present on adjacent property. The U.S. Army intends to investigate the adjacent property and retains the right to use exclusion zones. The investigation may have an impact on the Property through use of exclusion zones (zones established to restrict specific activities in a specific geographic area surrounding any object/structure which is being demolished using explosives) that intersect the property. Due to the use of exclusion zones, temporary notices and restrictions may be issued to protect public safety, human health and the environment. These temporary restrictions and notices may include but are not limited to, the removal of unexploded ordnance on the adjacent property, temporary evacuation, limited closure of facilities and environmental cleanup. In the unlikely event that evacuation is required, all action will be carried out as expeditiously as possible to minimize inconveniences to the JPA. Upon the completion of all OE work within the exclusion zones all temporary notices and restrictions shall be eliminated. A notice will be included in the deed.

NOTICE OF THE PRESENCE OF ENDANGERED SPECIES AND COVENANT:

1. Gray bats (*Myotis grisescens*) are known to forage near Twin Mountains Creek and Cane Creek and its tributaries; South Branch and Remount Creek. Areas within the Transferred Premises that are adjacent to Cane Creek and its tributaries and Twin Mountains Creek have been identified as suitable gray bat foraging habitat (Figure 5 and Attachment 5). Gray bats are listed as endangered by the U.S. Fish and Wildlife Service (FWS) and are afforded Federal protection under the Endangered Species Act (ESA) of 1973, as amended. Section 9 of the ESA prohibits private landowners from "taking" (harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) endangered species.

2. The following measures will limit potential take of gray bats on the Transferred Premises. Failure to follow these measures could subject the violator to criminal sanctions of the ESA:
 - a) Trees along Cane Creek and its tributaries and Twin Mountains Creek with moderate quality foraging habitat on the Transferred Premises provide protective cover and prey for foraging gray bats. Forest within 50 feet of these streams should not be removed. If removal of dead or live trees within 50 feet of these streams is necessary, the FWS must be consulted prior to cutting.
 - b) Gray bats primarily feed on insects with an aquatic life stage; therefore, water quality and the physical characteristics of streams affect the amount and types of insects available for these bats. State and Federal regulations pertaining to water quality and erosion control should be followed. Additionally, modification of stream banks and water flow should be avoided to maintain present water quality and physical structure.
 - c) Use of pesticides, particularly Malathion, should be managed according to a FWS consultation letter dated June 11, 1998. The Grantee should avoid (or eliminate or minimize) fogging in the vicinity of all moderate quality foraging habitat. FWS requested that if Malathion is used it should be sprayed only during daylight hours no earlier than one hour after sunrise and no later than one hour prior to sunset between March 15 and October 31. Use atmospheric conditions to determine appropriate timing for fogging on lands directly adjacent to foraging areas.

NOTICE OF HISTORIC PROPERTY AND PRESERVATION COVENANT

1. In consideration of the conveyance of certain real property hereinafter referred to as the First CERFA Parcel Transfer, located in the Calhoun County, Alabama, the Grantee hereby covenants on behalf of itself, its heirs, successors, and assigns at all times to the Alabama State Historic Preservation Officer to preserve and maintain three buildings, Buildings 141, 143, 144 in the Post Headquarters Historic District, in accordance with the recommended approaches in the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, National Park Service 1992), in order to preserve and enhance those qualities that make the three buildings in the Post Headquarters Historic District eligible for inclusion in/or resulted in the inclusion of the property in the National Register of

Historic Places. In addition, any design review guidelines established by a Preservation Commission with appropriate authority will be followed. If the Grantee desires to deviate from these maintenance standards, the Grantee will notify and consult with the Alabama State Historic Preservation Officer in accordance with paragraphs 2, 3, and 4 of this covenant.

2. The Grantee will notify the Alabama State Historic Preservation Officer in writing prior to undertaking any construction, alteration, remodeling, demolition, or other modification to structures or setting. Such notice shall describe in reasonable detail the proposed undertaking and its expected effect on the integrity or appearance of Buildings 141, 143, and 144, buildings within the Post Headquarters Historic District "Demolition or interior retrofit of noncontributing buildings and structures can be undertaken after thirty (30) days of written notice to the Alabama State Historical Preservation Officer without further consultation."
3. Within thirty (30) calendar days of the Alabama State Historic Preservation Officer's receipt of notification provided by the Grantee pursuant to paragraph 2 of this covenant, the Alabama State Historic Preservation Officer will respond to the Grantee in writing as follows:
 - (a) That the Grantee may proceed with the proposed undertaking without further consultation; or
 - (b) That the Grantee must initiate and complete consultation with the Alabama State Historic Preservation Office before it can proceed with the proposed undertaking.

If the Alabama State Historic Preservation Officer fails to respond to the Grantee's written notice, as described in paragraph 2, within thirty (30) calendar days of the Alabama State Historic Preservation Officer's receipt of the same, then the Grantee may proceed with the proposed undertaking without further consultation with the Alabama State Historic Preservation Officer.

4. If the response provided to the Grantee by the Alabama State Historic Preservation Officer pursuant to paragraph 3 of this covenant requires consultation with the Alabama State Historic Preservation Officer, then both parties will so consult in good faith to arrive at mutually-agreeable and appropriate measures that the Grantee will implement to

mitigate any adverse effects associated with the proposed undertaking. If the parties are unable to arrive at such mutually-agreeable mitigation measures, then the Grantee shall, at a minimum, undertake recordation for the concerned property--in accordance with the Secretary of Interior's standards for recordation and any applicable state standards for recordation, or in accordance with such other standards to which the parties may mutually agree--prior to proceeding with the proposed undertaking. Pursuant to this covenant, any mitigation measures to which the Grantee and the Alabama State Historic Preservation Officer mutually agree, or any recordation that may be required, shall be carried out solely at the expense of the Grantee.

5. Alabama State Historic Preservation Officer shall be permitted upon reasonable notice at a reasonable time to inspect Buildings 141, 143, and 144 within the Post Headquarters Historic District in order to ascertain its condition and to fulfill its responsibilities hereunder.
6. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the Alabama State Historic Preservation Officer may, following reasonable notice to the Grantee, institute suit to enjoin said violation or to require the restoration of the Buildings 141, 143, and 144 within the Post Headquarters Historic District. The successful party shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorneys fees.
7. In the event that Buildings 141, 143, 144 within the Post Headquarters Historic District (i) are substantially destroyed by fire or other casualty, or (ii) are not totally destroyed by fire or other casualty, but damage thereto is so serious that restoration would be financially impractical in the reasonable judgment of the Owner, this covenant shall terminate on the date of such destruction or casualty. Upon such termination, the Owner shall deliver a duly executed and acknowledged notice of such termination to the, Alabama State Historic Preservation Officer and record a duplicate original of said notice in the Calhoun County Deed Records. Such notice shall be conclusive evidence in favor of every person dealing with the historic buildings as to the facts set forth therein.
8. The Grantee agrees that the Alabama State Historic Preservation Officer may at his/her discretion, without prior notice to the Grantee, convey and assign all or part of its rights and responsibilities contained herein to a third party.

9. This covenant is binding on the Grantee, its heirs, successors, and assigns in perpetuity, unless explicitly waived by the Alabama State Historic Preservation Officer.
Restrictions, stipulations, and covenants contained herein shall be inserted by the Grantee verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any other lesser estate in the Transferred Premises or any part thereof.
10. The failure of the Alabama State Historic Preservation Officer to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
11. The covenant shall be a binding servitude upon the Transferred Premises and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that the Grantee agrees to be bound by the foregoing conditions and restrictions and to perform the obligations herein set forth.

NOTICE OF ARCHEOLOGICAL PROPERTY AND PRESERVATION COVENANT

1. In consideration of the conveyance of the real property that includes the one archeological property, site 1CA0565, located in the County of Calhoun, Alabama, the Grantee hereby covenants on behalf of itself, its heirs, successors, and assigns at all times to the Alabama State Historic Preservation Officer, to maintain and preserve archeological property, site 1CA0565, in accordance with the provisions of paragraphs 2 through 11 of this covenant.
2. The Grantee will notify the Alabama State Historic Preservation Officer in writing prior to undertaking any disturbance of the ground surface or any other action on archeological property, site 1CA0565, that would affect the physical integrity of this site. Such notice shall describe in reasonable detail the proposed undertaking and its expected effect on the physical integrity of the archeological property, site 1CA0565.
3. Within thirty (30) calendar days of the appropriate Alabama State Historic Preservation Officer's receipt of notification provided by the Grantee pursuant to paragraph 2 of this covenant, the SHPO will respond to the Grantee in writing as follows:
 - (a) That the Grantee may proceed with the proposed undertaking without further consultation; or

(b) That the Grantee must initiate and complete consultation with the Alabama State Historic Preservation Office before it can proceed with the proposed undertaking.

If the Alabama State Historic Preservation Officer fails to respond to the Grantee's written notice, as described in paragraph 2, within thirty (30) calendar days of the Alabama State Historic Preservation Officer's receipt of the same, then the Grantee may proceed with the proposed undertaking without further consultation with the Alabama State Historic Preservation Officer.

4. If the response provided to the Grantee by the Alabama State Historic Preservation Officer pursuant to paragraph 3 of this covenant requires consultation with the Alabama State Historic Preservation Officer, then both parties will so consult in good faith to arrive at mutually-agreeable and appropriate measures that the Grantee will employ to mitigate any adverse effects associated with the proposed undertaking. If the parties are unable to arrive at such mutually-agreeable mitigation measures, then the Grantee shall, at a minimum, undertake recordation for the concerned property--in accordance with the Secretary of Interior's standards for recordation and any applicable state standards for recordation, or in accordance with such other standards to which the parties may mutually agree--prior to proceeding with the proposed undertaking. Pursuant to this covenant, any mitigation measures to which the Grantee and the Alabama State Historic Preservation Officer mutually agree, or any recordation that may be required, shall be carried out solely at the expense of the Grantee.
5. The Grantee shall make every reasonable effort to prohibit any person from vandalizing or otherwise disturbing any archeological site determined by the Alabama State Historic Preservation Officer to be eligible for inclusion in the National Register of Historic Places. Any such vandalization or disturbance shall be reported to the Alabama State Historic Preservation Officer promptly.
6. The Alabama State Historic Preservation Officer shall be permitted upon reasonable notice at a reasonable time to inspect the archeological property, site 1CA0565, in order to ascertain its condition and to fulfill its responsibilities hereunder.
7. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, the Alabama State Historic Preservation Officer may,

following reasonable notice to the Grantee, institute suit to enjoin said violation or to require the restoration of any archeological site affected by such violation. The successful party shall be entitled to recover all costs or expenses incurred in connection with any such suit, including all court costs and attorney's fees.

8. The Grantee agrees that the Alabama State Historic Preservation Officer may, at its discretion and without prior notice to the Grantee, convey and assign all or part of its rights and responsibilities contained in this covenant to a third party.
9. This covenant is binding on the Grantee, its heirs, successors, and assigns in perpetuity, unless explicitly waived by the Alabama State Historic Preservation Officer. Restrictions, stipulations, and covenants contained herein shall be inserted by the Grantee, verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any other lesser estate in the archeological property, site 1CA0565, or any part thereof.
10. The failure of the Alabama State Historic Preservation Officer to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.
11. The covenant shall be a binding servitude upon the real property that includes one archeological site 1CA0565 and shall be deemed to run with the land. Execution of this covenant shall constitute conclusive evidence that the Grantee agrees to be bound by the foregoing conditions and restrictions and to perform the obligations herein set forth.

CONDITIONS, RESTRICTIONS, AND COVENANTS BINDING AND ENFORCEABLE:

These restrictions and covenants are binding on the Grantee, its successors and assigns; and shall run with the land; are forever enforceable; shall benefit the public in general and the territory surrounding the Property, including lands retained by the United States; and shall further the common environmental objectives of the United States and the State of Alabama; and are therefore enforceable by the United States Government and the State of Alabama.