

THIS INSTRUMENT PREPARED BY:  
James A. Wagoner, III, Attorney-Advisor  
U.S. Army Corps of Engineers, Mobile District  
P.O. Box 2288  
Mobile, Alabama 36628-0001

STATE OF ALABAMA )

COUNTY OF CALHOUN )

**QUITCLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS, the UNITED STATES OF AMERICA (the "GRANTOR"), acting by and through the Deputy Assistant Secretary of the Army (I&H) pursuant to the delegation of authority from the SECRETARY OF THE ARMY (the "ARMY"), under and pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), and the Defense Base Closure and Realignment Act of 1990, Public Law 101-510 as amended, and the City of Anniston, Alabama (the "GRANTEE").

**WITNESSETH:**

WHEREAS, 41 CFR 101-47.308-9 (Property for Correctional Facility, Law Enforcement, or Emergency Management Response Purposes) identifies the Federal Emergency Management Agency as the approval agency for conveyance, without monetary consideration to a State or political subdivision surplus real and related personal property for emergency management response purposes, including fire and rescue services, and

WHEREAS, by letter dated November 30, 1999 the Federal Emergency Management Agency approved the conveyance of the Fire Station Warehouse (Building 228) consisting of approximately .55 acres together with an easement consisting of .14 acres at Ft. McClellan, Alabama to the City of Anniston, Calhoun County, Alabama.

NOW, THEREFORE, the Grantor, for and in consideration of the use of the premises for emergency management response purposes, including fire and rescue services, does by these presents REMISE, RELEASE, and forever QUITCLAIM unto the Grantee and its assigns, all of its right, title, and interest in and to all the following described real property, situated in Calhoun County, Alabama, to wit:

A parcel of land situated in the Southwest Quarter of Section 15, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows,

Commence at a brass disk found at the Northwest corner of Section 10, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; thence run South 01° 11' 41" East, along the west line of said Section, for a distance of 2653.78 feet to an axle found at the purported Northwest corner of the Southwest Quarter of said Section 10; thence continue South 01° 11' 41" East, along said west line, for a distance of 6775.26 feet, thence run North 88° 48' 19" East for a distance of 522.20 feet, thence run South 01° 11' 41" East for a distance of 270.59 feet to the POINT OF BEGINNING; thence run South

57° 17' 06" East for a distance of 159.68 feet; thence run South 33° 58' 30" West for a distance of 123.00 feet; thence run North 87° 27' 22" West for a distance of 115.00 feet; thence run North 59° 24' 50" West for a distance of 11.00 feet; thence run North 02° 30' 00" West for a distance of 81.00 feet; thence run North 32° 47' 20" East for a distance of 115.00 feet to the **POINT OF BEGINNING**, said described tract containing 24,163 Square Feet (0.55 Acres) more or less. ALSO,

#### **INGRESS / EGRESS EASEMENT**

A 30.00 foot strip of land for Ingress / Egress, being situated in the Southwest Quarter of Section 15, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and lying 15.00 feet to each side of the following described line:

Commence at the Point of Beginning of the above described tract, thence run South 32° 47' 20" West for a distance of 115.00 feet; thence run South 02° 30' 00" East for a distance of 19.22 feet to the **POINT OF BEGINNING**; thence run South 59° 09' 29" West for a distance of 313.09 feet to the centerline of Baltzell Gate Road and the end of this line.

**SUBJECT, HOWEVER** to all existing easements for established lines and access routes for roadways and utilities located on the premises.

**TO HAVE AND TO HOLD** the hereinbefore described property, subject to the reservations, exceptions, restrictions, conditions and covenants herein expressed and set forth unto the Grantee, its successors and assigns, forever.

#### **1. COVENANT AND AGREEMENT**

The Grantee, by its acceptance of this deed, covenants and agrees for itself, and its successors and assigns, forever, as follows:

A. This Property shall be used and maintained for the public purposes for which it was conveyed in perpetuity, and in the event the Property ceases to be used or maintained for that purpose, all or any portion of the Property shall, at the option of the Grantor, revert to the United States.

B. The Property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Grantor agrees (in writing) can assure the continued use and maintenance of the property for emergency management response purposes, including fire and rescue services subject to the same terms and conditions in this original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related emergency management response purposes including fire and rescue services compatible with the approved application, through agreements entered into with third parties, provided prior concurrence (in writing) to such agreements is obtained from the Grantor or his authorized representative.

C. In the event of sale, lease, or transfer to another eligible governmental agency, all of the provisions of this deed including the environmental protection provisions shall be contained in such sale, lease, or transfer documents.

## 2. ENVIRONMENTAL PROTECTION PROVISIONS

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

### A. 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.

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

(1) The Grantee is hereby informed and does acknowledge that friable asbestos or asbestos-containing materials (collectively "ACM") have been found on the Property. The locations and conditions of ACM are as described in the EBS and referenced asbestos surveys provided to the Grantee. Except as provided in Subsection (2) below, the ACM on the Property does not currently pose a threat to human health or the environment and all friable asbestos that posed a risk to human health has either been removed or encapsulated.

(2) Building 228 has been determined to contain friable and non-friable asbestos that may pose a threat to human health. Detailed information is contained in the EBS and referenced asbestos surveys. The Grantor has agreed to convey said buildings and structures to the Grantee prior to remediation of asbestos hazards, in reliance upon the Grantee's express representation and promise that the Grantee, its successors or assigns, will, prior to use or occupancy of said buildings or structures, remediate such friable asbestos or demolish said buildings or structures, or the portions thereof containing friable asbestos, and dispose of ACM in accordance with applicable laws and regulations. With respect to the friable asbestos in said buildings or structures, the Grantee, its successors or assigns, specifically agree to undertake any and all notice posting, abatement or remediation that may be required under any law or regulation. The Grantee acknowledges that the consideration for the conveyance of the Property was negotiated based upon the Grantee's agreement to the provisions contained in this Subsection.

(3) The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. The Grantor assumes no liability for any 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 purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos or ACM on the Property, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The Grantee, its successors and assigns, assumes no liability for damages for personal injury, illness, disability, death or Property damage, or indemnification obligations hereunder, arising from any exposure or failure to comply with any legal requirements applicable to asbestos or ACM on any portion of the Property arising prior to the Grantor's conveyance or lease of such portion of the Property to the Grantee.

(4) Unprotected or unregulated exposures to asbestos in product manufacturing and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (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, including certain cancers that can result in disability or death.

(5) The Grantee acknowledges that it had the opportunity to inspect 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 section. 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 Grantor, or any adjustment under this Deed.

(6) The Grantee further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees, from and against any 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 after conveyance of the Property to the Grantee.

**C. NOTICE OF THE POTENTIAL FOR PRESENCE OF POLYCHLORINATED BIPHENYLS (PCBs) AND COVENANT:**

(1) The Grantee is hereby informed and does acknowledge that equipment containing PCBs may exist on the Property to be conveyed, and is described as follows: fluorescent light ballast ("Light Ballast"). All Light Ballast has been properly labeled in accordance with applicable laws and regulations in force at the time of purchase and installation to provide notification to future users, or has been removed and disposed of off post. Any PCB contamination or spills related to such Light Ballast has been properly remediated prior to conveyance. The Light Ballast does not currently pose a threat to human health or the environment.

(2) The Grantee covenants and agrees that its continued possession, use and management of any Light Ballast will be in compliance with all applicable laws relating to PCBs and PCB containing equipment, and the Grantor assumes no liability for the future remediation of the Light Ballast 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 future use, handling, management, disposition, or other activity causing or leading to contact of any kind whatsoever with the Light Ballast, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured.

**D. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSES:**

(1) The Grantee is hereby informed and does acknowledge that all buildings and Residential Real Property on the Property which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint (LBP). "Residential Real Property" means dwelling units and associated common areas and building exterior surfaces, and any surrounding land, including outbuildings, fences, and play equipment affixed to land, available for use by residents (but not including land use for agriculture, commercial, industrial, or other non-residential purposes, 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, on at least two different days within any week, including day-care centers, preschools and kindergarten classrooms. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was

built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damages, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

(2) 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. Available information concerning known lead-based paint and/or lead-based paint hazards at Fort McClellan, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the EBS and (for residential properties) LBP inspections and risk assessment, which has been provided to the Grantee. The Grantee has also been provided with the federally approved pamphlet on lead poisoning prevention and hereby acknowledges receipt of all of the information described in this subparagraph.

(3) The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this document.

(4) The Grantee, its successors and assigns, covenant and agree that they shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property, as defined in paragraph D(1), above, 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 Residential Real Property, the Grantee, its successor and assigns specifically agree to perform, at their sole expense, the Grantor'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)].

In complying with these requirements, the Grantee, its successor and assigns, covenant and agree to be responsible for any remediation of lead-based paint or lead-based paint hazards on Residential Real Property found to be necessary after the date of conveyance to the Grantee as a result of the subsequent use of the Property as Residential Real Property. 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.

(5) The Grantee, its successors and assigns, covenant and agree that they shall not permit the occupancy or use of any buildings or structures on the Property, as Residential Real Property or Child-Occupied Facilities, as defined by 40 CFR 745-223, 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 Residential Real Property or a Child-Occupied Facility, the Grantee, its successor and assigns, specifically agree to perform, at its sole expense, the abatement requirements under Title X or any other requirements pertaining to lead-based paint hazards in Child-Occupied Facilities. A Child-Occupied Facility is considered to be a building, or portion of a building, visited regularly by the same child, 6 years of age or under, on at least two different days within any week (Sunday through Saturday period), provided that each day's visit lasts at least 3 hours and the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours. Child-Occupied Facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.

(6) The Grantee, its successors and assigns, shall, after consideration of the guidelines and regulations established pursuant to Title X: (1) Perform a Risk Assessment if more than 12 months have elapsed since the date of the last Risk Assessment; (2) Comply with the joint Department of Housing and

Urban (HUD) Development 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 lead dust and lead-based paint hazards in pre-1960 Residential Real Property, as defined in paragraph A above, in accordance with the procedures in 24 CFR 35; (4) Abate lead soil hazards in pre-1978 Residential Real Property, as defined in paragraph A above, in accordance with the procedures in 24 CFR 35; (5) Abate lead soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property; (6) Comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L); (7) 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 (8) Send a copy of the clearance documentation to the Grantor.

(7) The Grantor assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, sublessees or to any other person, including members of the general public, arising from lead-based paint or lead-based paint hazards on the Property. The Grantee further agrees to indemnify and hold harmless the Grantor, 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 any 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. The Grantee's obligation hereunder shall apply whenever the Grantor incurs costs or liabilities for actions giving rise to liability under this section. This section and the obligations of the Grantee hereunder shall survive the expiration or termination of this instrument and any conveyance of the Property to the Grantee. 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. Accordingly, the Grantee, its successors and assigns, covenant that they will include and make legally binding, this section in all subsequent transfers, leases, or conveyance documents. The Grantee, its successors and assigns, assume no liability for damages for personal injury, illness, disability, death or property damage, or indemnification obligations hereunder, arising from any exposure or failure to comply with any legal requirements applicable to lead-based paint on any portion of the Property arising prior to the Grantor's conveyance of such portion of the Property to the Grantee.

#### **E. 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 ordnance and explosives (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 Grantee, 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.

#### **F. NOTICE OF THE PRESENCE OF ENDANGERED SPECIES AND COVENANT:**

(1) Gray bats (*Myotis grisescens*) are known to forage near Cane Creek and its tributary South Branch and are known to roost in caves and under bridges in the vicinity. Areas within the Transferred Premises that are adjacent to Cane Creek and its tributary South Branch have been identified as suitable gray bat foraging habitat. 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. Gray bats are known to use man-made structures in the vicinity of the Property. Prior to removing or altering the structure of a bridge, abandoned buildings, or cistern, the structure should be checked for the presence of gray bats. The FWS will be contacted if bats are found to be present.

b. Trees along Cane Creek and its tributary South Branch 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 this stream is necessary, the FWS should be consulted prior to cutting.

c. Gray bats primarily feed on insects with an aquatic life stage; therefore, water quality and the physical characteristics of the 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 the stream banks and water flow should be avoided to maintain present water quality and physical structure.

d. 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.

#### G. NOTICE OF HISTORIC PROPERTY AND PRESERVATION COVENANT

(1) The Grantee hereby covenants on behalf of itself, its heirs, successors, and assigns at all times to the Alabama State Historic Preservation Officer (SHPO) to preserve and maintain Building 228 in the Industrial 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 building 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 the building "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 the building 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 building. 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 the building is substantially destroyed by fire or other casualty, or is 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 building 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.

#### **H. NOTICE OF GROUND WATER RESTRICTION DUE TO LOW LEVEL PESTICIDES:**

##### **1. Restrictions and Conditions**

The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying for any purpose, the Property having been remediated only for commercial and industrial use. For the purpose of this restriction, "ground water" shall have the same meaning as in section 101(12) of CERCLA. The Grantee, for itself, its successors or assigned covenant that it will not undertake nor allow any activity on or use of the property that would violate the restrictions contained herein. These restrictions and covenants are binding on the Grantee, its successors and assigns, shall run with the land, and are forever enforceable.

##### **2. Enforcement**

The restrictions and conditions stated in 2(H)(1) above benefit the public in general, and, therefore, are enforceable by the United States government and the Alabama Department of Environmental Management. The Grantee covenants for itself, its successors, and assigns that it shall include and otherwise make legally binding, the restrictions in Section 1 in all subsequent lease, transfer or conveyance documents relating to the property subject hereto.

##### **3. Army Access**

The Army and its representatives shall, for all time, have access to the Property for the purpose of installing and/or removing groundwater monitoring wells, and to perform continued monitoring of groundwater conditions, allowing chemical and/or physical testing of wells to evaluate water quality and/or aquifer characteristics. The Property owner shall allow ingress and egress of all equipment necessary to accomplish the same.

#### **3. CERCLA NOTICE AND COVENANTS**

A. Notice. Pursuant to Section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act as amended, 42 U.S.C. Section 9620 (h)(3), ("CERCLA") and in the Finding of Suitability to Transfer (FOST), dated June 2003, the Grantor hereby notifies the Grantee, its successors and assigns, of the storage, release, and disposal of hazardous substances on the Property.

##### **B. Covenants**

(1) The Grantor hereby covenants that prior to the date of this conveyance, all corrective, remedial and response actions necessary to protect human health and the environment have been taken with respect to the Property.

(2) The Grantor hereby covenants that all corrective, remedial, and response actions necessary to protect human health and the environment with respect to any hazardous substances remaining on the Property after the date of transfer shall be conducted by the Grantor.

(3) The above referenced covenants shall not apply to the extent such remedial actions are caused by activities of the Grantee, its successors, assigns, transferees, sublessees, tenants or licensees.

#### 4. ACCESS RIGHTS AND EASEMENT

The Grantor hereby reserves an access easement to the Property in any case in which a response action or corrective action is found to be necessary after the date of this conveyance at such Property, or in any case such access is necessary to carry out a response action or corrective action on adjoining property. In exercising this access easement, the Grantor shall give the Grantee, or the then record owner, at least thirty (30) days prior written notice of actions to be taken in the remediation of the Property or the adjacent property, as the case may be, except for emergency situations or an imminent threat to human health and the environment, (in which case the Army shall give such notice as is reasonably practicable under the circumstances) and shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the use of the Property by the Grantee, its successors and assigns. Furthermore, any such actions undertaken by the Grantor pursuant to this Section will, to the maximum extent practicable, be coordinated with a representative of the Grantee, its successors and assigns. Grantee agrees that, notwithstanding any other provisions of the Deed, the Grantor assumes no liability to the Grantee, its successors or assigns, or any other person, should remediation of the property interfere with the use of the Property. The Grantee shall not through construction or operation/maintenance activities interfere with any remediation or response action conducted by the Grantor under this Section. The Grantee, the then record owner, and any other person, shall have no claim against the Grantor or any of its officers, agents, employees or contractors solely on account of any such interference resulting from such remediation.

#### 5. NOTICE OF NON-DISCRIMINATION

With respect to activities related to the Property, the Grantee shall not discriminate against any person or persons or exclude them from participation in the Grantee's operations, programs or activities conducted on the Property because of race, color, religion, sex, age, handicap or national origin.

#### 6. INDEMNIFICATION

In conveying the Property, the Grantor recognizes its obligation to hold harmless, defend, and indemnify the Grantee and any successor, assignee, transferee, lender, or lessee of the Grantee as provided for in Section 330 of the Department of Defense Authorization Act of 1993, as amended, and to otherwise meet its obligations under the law.

#### 7. ANTI-DEFICIENCY ACT

The Grantor's obligation to pay or reimburse any money under this Deed is subject to the availability of appropriated funds to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act (31 U.S.C. Section 1341).

IN WITNESS WHEREOF, the GRANTOR has caused this Deed to be executed in its name by the Secretary of the Army and the Seal of the Department of the Army to be hereunto affixed this 24th day of February 2004.

## UNITED STATES OF AMERICA

By: Joseph W. Whitaker  
Joseph W. Whitaker  
Deputy Assistant Secretary of the Army  
(Installations and Housing)  
OASA(I&E)

Signed, Sealed and Delivered

In the presence of:

Witness: [Signature]Witness: Rachel Obenkovitz

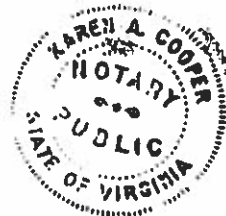
COMMON WEALTH OF VIRGINIA )

) SS:

COUNTY OF ARLINGTON )

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, whose commission as such expires on the 30th day of November, 2006, do hereby certify that this day personally appeared before me in the Commonwealth of Virginia, County of Arlington, Deputy Assistant Secretary of the Army, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed, dated this 24th day of February, 2004, and acknowledged the same for and on behalf of the UNITED STATES OF AMERICA.

Karen A. Cooper  
Notary Public



The terms and conditions of this Quitclaim Deed are hereby accepted this 15<sup>th</sup> day of January, 2003, Hoyt W. Howell, Jr., hereby certify that holding the position of Mayor, for the City of Anniston, Alabama, have the authority to execute this instrument on its behalf, and that my signature, as it appears below, is authentic.

## CITY OF ANNISTON

By: Hoyt W. Howell, Jr.Title: MayorDate: 1/15/04

In the presence of:

Witness Al B. OutWitness Sam B. [Signature]

STATE OF ALABAMA )

) SS:

COUNTY OF CALHOUN )

I, the undersigned, a Notary Public in and for the State of Alabama, County of Calhoun whose commission as such expires on the 6<sup>th</sup> day of Oct., 2006, do hereby certify that this day personally appeared before me in the State of Alabama, County of Calhoun, Hoyt W. Howell, Jr., in his official capacity as Mayor, for the City of Anniston, Alabama, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed, dated this 15<sup>th</sup> day of Jan, 2003, and acknowledged the same for and on behalf of the City of Anniston, Alabama.

Janice Dwyer  
Notary Public



Recording Fee	45.00
TOTAL	45.00