

## RESTRICTED USE EASEMENT

THIS CONSERVATION EASEMENT ("Easement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, Individually and \_\_\_\_\_ Trustee of the \_\_\_\_\_ Trust (the "Grantor"), and the Compatible Lands Foundation, 1305 East 15<sup>th</sup> Street, Suite 202, Tulsa, OK 74120 (the "Grantee") to preserve the agricultural and recreational resources of the land described in Exhibit A and to promote land uses that are compatible with activities conducted at \_\_\_\_\_ (military installation). (When used in this Easement, unless the context otherwise specifies, "Grantor" includes the heirs, personal representatives, its successors and assigns, and "Grantee" includes the assigns of the Compatible Lands Foundation and its successors. The Grantor and the Grantee may be collectively referred to as "Parties," or in the singular, each may be referred to as a "Party," in which event those words include their respective (heirs, personal representatives, and assigns) (successors and assigns.)

THIS EASEMENT WITNESSETH, that, in consideration of the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) and the mutual covenants, terms, and conditions contained in this Grant, the Grantor hereby grants and conveys to the Grantee a restrictive easement in perpetuity ("Easement") over the land, which is described in Exhibit A (the "Property"), of the nature and character, and to the extent, set forth in this Easement.

WHEREAS, Grantor and Grantee recognize the scenic, agricultural, natural and open character of the Protected Property, and have the common purpose of the conservation and protection in perpetuity of the Protected Property by placing voluntary restrictions upon the use of the Protected Property, intending the grant of such restrictions and rights to qualify as a "qualified conservation contribution" as that term is defined under Section 170(h) of the Code and pursuant to the laws of the State of \_\_\_\_\_. The scenic, agricultural, natural and open characteristics of the Protected Property are documented in the Baseline Inventory conducted by Grantee.

1. Purpose. It is the purpose of this Easement to preserve in perpetuity the agricultural and recreational resources of the Property and to limit any development or use of the Property that would otherwise be incompatible with the mission of Fort Hood (the "Installation"), or might interfere, whether directly or indirectly, with current or future military training, testing, or operations on or adjacent to the Installations.

2. Rights of the Grantee. To accomplish the purpose of this Easement, the Grantor conveys the following rights by this Grant to the Grantee:
  - a. To limit any development or use of the Property inconsistent with the purpose of this Easement, that would otherwise be incompatible with the mission of the Installation;
  - b. To enter upon the Property at reasonable times in order to monitor compliance with, and enforce the terms of this Easement; provided that the entry shall be made after giving reasonable notice to the Grantor as each circumstance may permit, and the Grantee shall not unreasonably interfere with the use and quiet enjoyment of the Grantor of the Property;
  - c. This easement does not, however, provide for access to the property for the purpose of conducting any surveys or studies related to threatened or endangered species. Nor does this easement provide for any party to conduct any surveying or delineations of wetlands or waters of the U.S. on the property.
  - d. To prevent any activity on, or use of, the Property that is inconsistent with the purpose of this Easement, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to Paragraph 5.
3. Prohibited Uses. Any activity or use of the Property inconsistent with the purpose of this Easement is prohibited by the Grantor. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
  - a. Subdivision, development, or any residential, commercial, or industrial use at greater density than the current use is prohibited. Commercial activities other than agriculture and passive recreational uses (as those terms are defined below) are prohibited on the Property, except for the sale of agricultural products produced on the Property.

"Agriculture" means all methods of production and management of livestock, crops, trees, and other vegetation, as well as aquiculture. This includes the related activities of tillage, fertilization, pest control, and harvesting as well as the feeding, housing, training and maintenance of animals. "Passive recreational uses" include but are not limited to; hunting, fishing, camping, bird watching, hiking, biking, horseback riding, ATV riding (no race tracks are permitted). Hunting leases and day lease

trail rides are not to be considered a “commercial activity” but rather are categorized as passive recreational activities and are therefore permissible.

- b. No structure may exceed 100 feet above ground level.
  - c. No lighting shall be permitted that may be dangerous, distracting, or misleading to aircraft operating from the Installation. This type of lighting includes, but is not limited to, strobe lights, nonemergency vehicle rotating beacons, or light sources above 16,000 lumens. Light sources above 16,000 lumens must be angled 15 degrees below the horizon.
  - d. No right of access by the general public to any portion of this property is conveyed in this easement.
  - e. No surface mining of the property shall be permitted. Sub-surface extraction of minerals is allowed as permitted by applicable state and local laws. In the event that subsurface mineral extraction occurs, Grantor shall make reasonable effort to minimize or restore alteration of or damage to the surface of the property.
  - f. No dumping of trash or storage of any toxic chemicals other than those allowed by law for agricultural uses shall be permitted on the Property.
4. Rights of the Grantor. To accomplish the purpose of this Easement, the Grantor maintains the following rights:
- a. Grantor maintains the rights to freely conduct agricultural operations and activities. “Agriculture” means all methods of production and management of livestock, crops, trees, and other vegetation, as well as aquiculture. This includes the related activities of tillage, fertilization, pest control, excavation, prescribed burning and brush control as well as the feeding, housing, training and maintenance of animals such as cows, sheep, goats, horses, deer, exotic deer and poultry.
  - b. Grantor maintains the rights to freely construct any structures required for agricultural operations without any permitting requirements or the permission of the Grantee. These may include, but are not limited to: Animal Pens, Barns, Fences, and Ponds, Water tanks or water wells. All structures must have a

clear and specific agricultural purpose or value to meet the intent of this easement.

- c. Grantor maintains the rights to freely conduct passive recreational activities. Passive recreational activities include, but are not limited to; hunting, fishing, camping, bird watching, hiking, biking, horseback riding, ATV riding (no race tracks are permitted). Hunting leases and day lease trail rides are not to be considered a “commercial activity” but rather shall be categorized as passive recreational activities and are therefore permissible. Further, Grantor maintains the rights to construct temporary structures for purposes of hunting, including blinds or tents, without restriction.
- d. Grantor maintains all water rights as defined by the laws of the State of Texas and the United States of America and is not subject to this conservation easement.

Enforcement and Remedies. Upon any breach of a term of this Easement, the Grantee may institute suits to enjoin any breach or enforce any term by injunction and require that the Property be restored promptly to the condition required by this Easement. The remedies of the Grantor shall be cumulative, and shall include any other rights and remedies available to the Grantee at law or in equity.

Should the Grantee fail to enforce any term of this Conservation Easement or permit the Property to be used or developed in a manner inconsistent with the Easement Purpose, then the Secretary of the Army, through his or her authorized representative, shall have the right to enforce the Easement using the procedures in Section 6 and all authorities available under State or Federal law. No greater right of entry shall be exercised than specified in Section 2 (b). Should Grantee, or Grantee's assignee, either dissolve or become incapable of providing for long-term monitoring and enforcement of this easement, Grantee or Grantee's assignee shall notify the US Army. The Secretary of the Army, through his designated representative, shall have the option to direct Grantee or Grantee's assignee to transfer the Conservation Easement to the Army or a third party "eligible entity" as defined by 10 USC 2684a(b)(1)-(2). Grantee shall ensure that any deed of transfer contains the rights set forth in this paragraph. Original Grantor, if in possession of the property at the time of transfer, must approve of the identified eligible entity prior to the transfer of this Conservation Easement.

5. Discretion of the Grantee. Enforcement of the terms of this Easement shall be undertaken at the discretion of the Grantee. No failure on the part of the Grantee to enforce any term of this Easement on one occasion shall discharge or invalidate that term or any other term of this Easement, or affect the enforcement right of the Grantee in the event of a subsequent breach or default.

6. Notices. Any notice, approval, or communication that either Party is required or desires to give related to this Easement must be given in writing and may be served personally (including by recognized courier service) or sent by certified mail, return receipt requested, by the U.S. Postal Service, to:

To Grantor:

To Grantee:                   Compatible Lands Foundation  
  1305 E. 15th, Ste 280  
  Tulsa, Oklahoma 74120

Or to any other address that a Party may designate by written notice to the other Party.

7. Subsequent Transfers. The Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of the Easement. The Grantor further agrees to give written notice, by the means specified in section 6, to the Grantee of the transfer of any interest in the Property at least twenty (20) days prior to it.
8. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of that provision to persons or circumstances other than those in favor of which it is found to be invalid, as the case may be, shall not be affected.
9. Runs with the Land. The covenants, terms, conditions, and restrictions of this Easement shall be deemed to touch and concern, and run with, the land.
10. Entire Agreement. This Easement sets forth the entire agreement of the Parties for the conveyance of a conservation easement on the Property, and supersedes all prior discussions, negotiations, understandings, or agreements, oral or written, relating to this Easement, all of which are merged into this Easement.

IN WITNESS WHEREOF, the Grantor has (caused this instrument to be executed by its duly authorized officers) affixed (his hand and seal) the day and year written above.

GRANTOR:

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2015

STATE OF \_\_\_\_\_

) ss.

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014, known to me to be the person whose name is subscribed to the instrument set forth above, personally appeared before me, \_\_\_\_\_, a Notary Public for the State of \_\_\_\_\_, and acknowledged that he executed the same.

IN WITNESS WHEREOF, I hereunto set my hand and affix my notarial seal on the date written above.

(SEAL)

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_

My commission expires:

THE COMPATIBLE LANDS FOUNDATION

By: \_\_\_\_\_

Its (title): \_\_\_\_\_

Date: \_\_\_\_\_, 2015

ACKNOWLEDGEMENT

On the \_\_\_\_ day of \_\_\_\_\_, 2014, before me \_\_\_\_\_,  
the Undersigned Notary Public, personally appeared \_\_\_\_\_, personally known  
to me to be the person whose name is subscribed to the foregoing instrument.

\_\_\_\_\_  
Notary Public, State of  
Printed Name: \_\_\_\_\_  
C o m m i s s i o n

Expires: \_\_\_\_\_

**Exhibit A**  
**Legal Description**

**Include legal description and map here.**

