

Lease # _____

HUNTING LICENSE AGREEMENT

THIS HUNTING LICENSE AGREEMENT (hereinafter “**Agreement**”) made and entered into this ___ day of _____, 2021, effective **June 1, 2021** (hereinafter “**Effective Date**”) by and between **Alabama Power Company** a corporation, whose address is 600 North 18th Street, Birmingham, AL 35203 (hereinafter referred as “APCo”) and _____ **Hunting Club**, in care of _____, whose mailing address is _____, and contact information is _____ and _____ (hereinafter “Licensee”).

WITNESSETH:

WHEREAS, APCo owns certain Property in _____, Alabama more particularly described in Exhibit “A” attached hereto (hereinafter “Property”), and

WHEREAS, APCo primarily uses the Property to plant, grow, cultivate and harvest timber and pulpwood, and

WHEREAS, Licensee, on behalf of itself, its membership and its guests, wishes to acquire a license from APCo to legally hunt game on the Property, and

WHEREAS, APCo wishes to grant Licensee a license to legally hunt game on the Property, in accordance and agreement with all Federal, State and County laws and statutes governing such activities.

NOW, THEREFORE, in consideration of the foregoing premises, which are hereby incorporated into and hereby made a part of the terms and conditions of this Agreement, and the mutual covenants recited hereinafter, it is agreed as follows:

ARTICLE 1 GRANT OF LICENSE

1.01 Grant. APCo hereby grants Licensee the right to legally hunt game of every description on the Property identified on the attached map designated as Exhibit “A”. Said right to hunt game shall be exclusive in Licensee except as provided in Paragraphs 1.02, 2.01, 2.02 and Article 10 hereof. Licensee assumes this License for the permissive use of the Property “as is”, “where is” with all faults, and at the sole risk of the Licensee.

1.02 Characterization of Licensees Rights. The rights which APCo grants to Licensee hereunder shall constitute a mere license and shall not be construed as a grant, sale, transfer, lease, profit a prendre, or other disposition of any interest in the Property. Licensee's exercise of any rights hereunder is permissive only and in no sense adverse to the title, ownership and possession of APCo.

ARTICLE 2
APCO'S RESERVATION OF RIGHTS

- 2.01 *Normal Use of Property.* APCo reserves the right to enter the Property at any time in pursuit of any of its business activities or corporate powers, including but not limited to, cutting timber or pulpwood, planting and caring for trees, site preparation and weed tree control, cutting fire lanes, constructing, operating and maintaining on said Property electric transmission lines and appliances in connection therewith, dams, power plants, locks, water channels and other structures or works necessary in connection with a dam or dams now constructed or to be constructed either upstream or downstream from the lands herein leased, and the right to do all things necessary in determining the usefulness of said lands therefor, together with the right of ingress and egress, and that APCo shall not be liable to the Licensee, its employees or anyone else on said Property, for any loss or damage whatever accruing or resulting directly or indirectly therefrom, or for any of the consequences which may result from the construction, maintenance or operation of said transmission lines and appliances, dam or dams, power plants, locks, water channels or other structures or works. If, in the course of APCo's use of Property it becomes necessary, expedient, or advisable for APCo to temporarily prohibit, curtail, or suspend hunting on any part or all of the Property, APCo shall have the right to do so immediately.
- 2.02 *Disposition of Property.* APCo reserves the absolute right to develop, grant, convey, sell or otherwise dispose of the Property, or any portion thereof, at any time during the term of this Agreement without the consent of Licensee or prior notice to Licensee. APCo shall notify Licensee of any such development, grant, conveyance, sale or other disposition within thirty (30) days after consummation of such transaction. Thereupon, all rights granted Licensee hereunder shall terminate in accordance with Article 9 hereof, unless otherwise provided in Article 10 hereof.
- 2.03 *Withdrawal of Property from Program.* APCo reserves the absolute right to withdraw the Property from its hunting program for any reason and at any time during the term of this Agreement without the consent of Licensee or prior notice to Licensee. Upon notice by APCo of any such withdrawal, all rights granted Licensee hereunder shall terminate thirty (30) days after said notice in accordance with Article 9 hereof, unless otherwise provided in Article 10 hereof.

ARTICLE 3
OPERATION UNDER THE LICENSE

Licensee shall be fully responsible for ensuring that its members, guests and any other persons on the Property under the authority of Licensee, abide by the following requirements imposed on Licensee, hereunder:

- 3.01 *Wildlife Management.* Licensee shall exercise its rights hereunder in accordance with accepted wildlife management principles. Licensee shall not forbid hunting of any species of game during legal seasons on the Property without the express written consent of APCo. Such

consent shall be given only after an investigation to ensure that such action is necessary to properly manage and protect wildlife populations, and is in the best interest of residents and landowners in the immediate area. APCo shall notify Licensee of its decision within thirty (30) days following receipt of a written request from Licensee.

- 3.02 *Fire Prevention and Control.* Licensee shall not build, start or set fires on the Property and shall take all reasonable precautions to prevent forest fires on the Property. Furthermore, if Licensee discovers or learns of any fire on the Property or in the vicinity thereof, Licensee shall immediately notify APCo and the Alabama Forestry Commission and take all reasonable measures to control and extinguish the fire and to prevent or minimize damage to persons, land and personal Property.
- 3.03 *Interference with APCo Activities.* Licensee recognizes the primary right of APCo to the ownership, use and possession of the Property. Licensee shall not interfere with any of the rights of APCo reserved under Article 2 hereof or with the rights of any other person, firm or corporation holding any interest in the Property.
- 3.04 *Maintenance.* Licensee assumes a reasonable duty of care for the Property. APCo reserves the right to assess damages to the Licensee for its failure to maintain the Property in a reasonable manner. Violation of Licensee's duty of care can result in an immediate termination of this Agreement. Licensee shall not permit litter to remain on the Property nor engage in or permit any activity which may damage, destroy or injure the Property including any timber, pulpwood or other tree growth thereon. Prohibited activities include, but are not limited to, placing nails, spikes, screws or other metal objects in any tree on the Property. In addition, Licensee prior to termination or expiration of this Agreement shall remove all things brought onto the Property by it or any of its members or guests. Any personal property left on the Property upon termination or expiration of this Agreement will be deemed to be abandoned immediately upon said termination or expiration and will be removed at the expense of the licensee.
- 3.05 *Cultivation and Construction.* Licensee shall not build or construct any road, building, gate, lake, pond, or other structure of any type without the prior written approval of APCo. Licensee may cultivate food plots, but only after prior written approval of APCo, and only to the extent allowed by law.
- 3.06 *Cutting.* Licensee shall not cut any timber, pulpwood or trees of any kind on the Property without the prior written consent of APCo. Further, Licensee shall not cause, permit or allow any others to cut any timber, pulpwood or trees of any kind on the Property without the prior written consent of APCo. Licensee shall provide APCo prompt notice upon Licensee becoming aware of any timber, pulpwood or trees of any kind on the Property being cut without APCo's prior written consent.
- 3.07 *Posting.* Licensee shall have the right to post signs on the perimeter of the Property and on the sides of roads crossing the Property. Said signs may prohibit hunting by persons not authorized to do so under the terms of this Agreement. Licensee shall submit all signs to APCo for written approval prior to posting.

- 3.08 *Boundaries.* Licensee shall exercise its best efforts to ensure that its members and guests have strict knowledge of, and adhere to the boundaries of the Property, and any setoffs and/or other restrictions specified in Section 3.09 hereto. In the event Licensee, its members or guests, engage in hunting activities on APCo lands not covered by this agreement, APCo may, at its election, immediately terminate this agreement.
- 3.09 *Compliance with the Law.* In all its operations on the Property, Licensee, its members and guests shall comply with all applicable federal, state and local laws/regulations and any other related requirements now in effect or subsequently adopted during the term of this Agreement, including, but not limited to, those governing fishing, hunting and the use of firearms. The parties hereto specifically agree that compliance with all applicable federal, state and local laws and related requirements is of the essence of this Agreement, including, but not limited to, the following:
- (a) Licensee, its members and its guests shall only hunt on the Property during legal hunting seasons at specified legal times for the type of hunting and type of animal being hunted.
 - (b) Licensee, its members and its guests shall not hunt or attempt to hunt within 200 yards of any dwelling belonging to another, whether occupied or not, without the permission of the owner or lessee of said dwelling. Provided further, it shall be unlawful for any person to discharge a firearm while hunting in such a manner that any projectile strikes any dwelling or building used for human occupation, whether occupied or not, or any commercial vessel, without the permission of the owner or lessee of said dwelling, building or vessel. See Ala. Code §§9-2-7, 9-2-8 and 9-2-12 (1975) (as amended by APCo).
 - (c) Licensee, its members and its guests shall not hunt, attempt to hunt or discharge a firearm within 100 yards of the right-of-way of any public road, highway or railroad with a centerfire rifle, a shotgun using slugs or shot larger than number four (4) shot or a muzzle loading rifle .40 caliber or larger. Ala. Code §9-11-257 (as amended by APCo).
 - (d) Licensee, its members and its guests shall not hunt, trap, capture, injure, kill or destroy any wild game on another person's land without having in possession the written permission of the landowner or person in control of such land, unless accompanied by the landowner or unless a guest of the landowner.
 - (e) Licensee, its members and its guests must be properly licensed and must timely complete the mandatory Alabama Game Check information for any deer or turkey harvested within 48 hours through the Outdoor Alabama app, online or telephone (1-800-888-7690).
- 3.10 *Restrictions.* Licensee shall not do any trapping on the Property. The Licensee shall not hunt deer with the use of dogs. Hunting camps or any habitable structure are prohibited.

Licensee understands that APCo has no right to grant permission for Licensee to violate any federal, state or local law. To the extent that APCo consents to any action by Licensee which may be in violation of any such laws, such consent shall have no effect and shall not constitute

a waiver by or estoppel against APCo with regard to the provisions of Paragraphs 3.09 and 3.10 of this Agreement. It is Licensee's responsibility to understand and be aware of all laws, rules and regulations applicable to Licensee's activities. Any violation of the provisions of Paragraphs 3.09 or 3.10 of this Agreement by Licensee, or by any persons on the Property with permission of Licensee, shall immediately and without notice terminate and void all rights of Licensee to hunt and fish on the Property, to the effect that any further such activities of Licensee, or persons on the Property with permission of Licensee, including hunting and fishing on the Property, shall be deemed to be done without the permission or consent of APCo.

APCo and Licensee hereby grant the right and license to all applicable federal, state and local agencies to enter upon the Property for the purpose of enforcing fishing, hunting and game laws, rules and regulations. A copy of this Agreement may be provided by APCo to any such agencies.

Licensee shall not engage in any commercial activity upon the Property. Said prohibition includes, without limitation, non-recreational, trade or commercial hunting, or any activities for which the Licensee may attempt to open the Property to the public (e.g., fundraisers, trail rides, etc.).

The possession of alcohol and illegal drugs on the Property shall be prohibited at all times.

- 3.11 *Reporting Timber Damage.* Licensee shall promptly report to APCo any significant dead, dying or damaged timber on the Property.
- 3.12 *Hunting Periods and Use.* Hunting shall be permitted under this Agreement only during legal hunting seasons, as dictated by the State of Alabama that may fall between September 15 and April 30.
- 3.13 *Use of All-Terrain Vehicles.* Use of all-terrain vehicles on the Property may only be used by Licensee merely as a means of transportation on the Property, provided that such use (a) is done so in a responsible manner and is in compliance with all applicable federal, state, and local laws and other related requirements, (b) does not cause material damage or injury to the Property as determined by APCo, and (c) safety helmets are used at all times pursuant to insurance requirements.
- 3.14 *Hunting on Electric Utility Right-of-Way.* Structures such as deer stands or shooting houses for hunting purposes are dangerous when improperly located on or near electrical facilities. Any temporary or permanent structure placed within the company's right-of-way without the knowledge or consent of APCo is prohibited. APCo will permit these structures on the outer edge of the right-of-way. Structures that are attached to transmission towers or other power poles, block access facilities or are too close to facilities, or are located underneath a high voltage line are not allowed and will be required to be removed by Licensee. Prior to placing hunting structures within APCo right-of-way, please contact an Alabama Power right-of-way specialist at 1-877-891-2079.

- 3.15 *Tree Stands.* Safety harnesses are required with use of tree stands pursuant to insurance requirements.
- 3.16 *Member List.* **Licensee is required to provide to APCo an updated list of member names with, at a minimum, (1) the names of each member and (2) the name, address, phone number and electronic mail address for the primary contact and secondary contact.** Failure to timely update APCo with changes to Licensee's member list with the required information set forth in this paragraph may result in cancellation of the License.

ARTICLE 4 NO WARRANTY / UNSAFE CONDITIONS

APCo makes no warranty that it has good title to the above-granted rights and shall not be liable to Licensee for failure of its title or right to possession of any part of the Property. APCo further makes no warranty of any type as to the condition of the Property or its suitability for hunting or any other purpose. Licensee agrees that there may be unsafe conditions on the Property and that it waives and releases any duty on the part of APCo to make any part of the Property safe or to warn Licensee or any of its members or guests of any unsafe condition. All members and guests of Licensee shall be deemed invitees or licensees of Licensee and not of APCo. APCo does not guarantee access to the Property and APCo shall have no obligation to maintain roadways to or on the Property. APCo shall have no obligation to prevent trespassing, including poaching, on the Property and assumes no responsibility for the acts of any third parties.

ARTICLE 5 LIABILITY AND INDEMNIFICATION

Licensee, its members, guests and others on the Property under authority of Licensee, shall conduct all their activities on the Property strictly at their own risk. APCo shall not be liable for any damage or destruction of Property, or injury or death of persons, or any violation of law which may arise in any manner as a result of Licensee's exercise of its rights and duties under this Agreement. Licensee agrees and covenants to release, indemnify, hold harmless and defend APCo and APCo's agents, servants, or employees from any and all claims, damages, suits, or actions of any character and any loss, cost or expense for damages to Property and for injury or death to persons arising out of, related to, or in any way associated or connected with or growing out of any use by the Licensee and its invitees and licensees of the Property or the exercise of the rights granted hereunder, in whatever manner the same may be caused, or whether or not the same be caused, occasioned or contributed to by the negligence, sole or concurrent, of APCo, or its agents, servants or employees. Such release, indemnity, hold harmless and defense agreement shall apply without limitation to all persons and shall specifically apply for any claim, damages, injuries, suits or actions of any character for injuries or damage suffered by Licensee, any member of Licensee's family or organization, his, its or their employees, licensees, guests, invitees, or any other persons, firms or entities whomsoever, based upon any injury or death to person or persons or damage to Property resulting from or growing out of any use by Licensee or any of them of the Property or the exercise of the rights granted hereunder.

This indemnification clause shall be given effect in accordance with its plain meaning and no rule of interpretation shall be given effect as to construe it contrary to the party responsible for its drafting. This indemnification shall survive the expiration or earlier termination of this Agreement.

Hazardous Materials. During the term of this Agreement, Licensee agrees and covenants not to treat, store, handle, locate on, discharge from or dispose on the Property, any Hazardous Materials. As used herein, the term “**Hazardous Materials**” includes, without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (“CERCLA”) (42 U.S.C. Sections 9601, *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801, *et seq.*), the Resource Conservation and Recovery Act (“RCRA”) (42 U.S.C. Sections 6901, *et seq.*), the Clean Water Act (33 U.S.C. Sections 1251, *et seq.*), the Clean Air Act (42 U.S.C. Sections 7401, *et seq.*), the Toxic Substances Control Act (15 U.S.C. Sections 2601, *et seq.*), each such Act as amended from time to time, and in the rules and regulations adopted and publications promulgated pursuant thereto, or in any other federal, state or local environmental law, ordinance, rule, or regulation now or hereafter in effect.

The Licensee agrees to and does hereby indemnify and hold APCo harmless from all loss, cost, damage, claim and expense incurred by APCo on account of the violation of the agreements and covenants set forth in this Article 5. This indemnification shall survive the expiration or any termination of this Agreement with respects to actions of the Licensee, its members, guest(s), and others on the Property under the authority of the Licensee.

The provisions of this article shall survive either the expiration or the termination of this Agreement for any reason whatsoever, and shall inure to the benefit of APCo while any possible legal liability exists.

ARTICLE 6 INSURANCE

6.01 Coverage. APCo shall maintain comprehensive general liability insurance to protect APCo from claims arising out of or resulting from Licensee's activities under this Agreement, or the activities of anyone for whose acts Licensee may be liable. Licensee shall be responsible for the annual insurance premium for the term of this Agreement. APCo shall provide Licensee a written invoice annually for the premium which said premium shall be due to APCo within thirty (30) days of receipt of the said invoice. Licensee shall not be entitled to a refund for any premium paid upon expiration or termination of this Agreement. Nothing herein should be interpreted to require APCo to purchase insurance providing coverage to the Licensee or anyone other than APCo. The Licensees shall be responsible for their own insurance coverage.

6.02 Survival. The provisions of this article shall survive either the expiration or the termination of this Agreement for any reason whatsoever, and shall inure to the benefit of APCo while any possible legal liability exists.

**ARTICLE 7
LICENSE FEE**

7.01 *Payment.* During the Initial Term (as defined in Article 8 herein), Licensee shall pay annual license fees under this agreement in accordance with the following schedule: _____ **Dollars (\$ _____)** in advance, no later than **June 1** each year this agreement remains in effect.

Licensee shall pay all annual license fees due hereunder to APCo at the address specified in Paragraph 11.05 hereof.

7.02 *Adjustment.* Adjustments to the total annual license fee may occur as follows:

- (a) In the event the license granted herein is renewed one or more times pursuant to Article 8 of this Agreement, the annual license fee for the renewal term shall be increased by the higher of a ten percent (10%) from the annual rate applied to the prior term or to a minimum dollar per acre price set by APCo, whichever is higher.
- (b) Licensee recognizes that the area determination of _____ acres is an estimate. APCo reserves the right to make more accurate determinations of area at any time during the term of this Agreement, and subsequent annual fee payments shall be based on such new determination of area. APCo shall make no adjustment to the annual fee payments which Licensee made prior to any such new area determination.
- (c) By mutual agreement of the parties, additional lands may be added to this Agreement and become part of the Property for all purposes of the Agreement, or lands may be withdrawn from the property under the Agreement. Should any such additions or withdrawals be made, a revised **Exhibit "A"** shall be attached hereto showing (1) the lands originally subject to the Agreement; (2) any additions or withdrawals therefrom; and (3) the effective dates of any such changes. Annual payments for years following such additions or withdrawals may be adjusted commencing with the annual anniversary date immediately following such addition or withdrawal.

**ARTICLE 8
TERM**

8.01 *Initial Term.* This Agreement shall remain in force for **Five (5) years** or until cancelled by either party in accordance with the termination clause.

8.02 *Renewal.* This Agreement shall be renewable only upon a written request made by Licensee to APCo at least sixty (60) days prior to the expiration date of the Agreement, and written approval of such renewal request, in letter form, by APCo to Licensee. APCo's approval may be given or withheld by APCo in its sole discretion.

**ARTICLE 9
TERMINATION**

9.01 *Termination.* This Agreement may be terminated thirty (30) days upon posting notice in the mail, both without cause and for cause of failure of Licensee to perform under any of its obligations hereunder. In the event of such cancellation for cause, all prepaid license fees shall be forfeited by Licensee as liquidated damages. Failure of APCo to so cancel this Agreement for cause in any instance of nonperformance by Licensee shall not impair APCo's right to so cancel for cause in any other instance of nonperformance by Licensee.

9.02 *Obligations of APCo Upon Termination.* Upon termination of this Agreement by APCo without cause or as a result of any disposition of the Property under Paragraph 2.02 hereof, APCo shall reimburse Licensee a pro-rata share of the annual license fee payment for the year during which such termination occurs. The amount of reimbursement by APCo shall be determined by multiplying the total annual payment for the year of termination by a fraction whose denominator is 12 and whose numerator is the number of months remaining in said year after the date of termination and subtracting from that figures any amounts owed to APCo under the terms of this Agreement including, but not limited to any amounts owing under Section 6.01 or Section 9.03(a) of this Agreement.

9.03 *Obligations of Licensee Upon Termination.*

- (a) Upon termination for any reason hereunder, Licensee shall not be required to make annual payments for the remaining years of the term of this Agreement
- (b) Upon termination or expiration of this Agreement, Licensee shall repair any damage to the Property caused by its activities (normal wear and tear excepted), remove all signs or barriers which it was permitted to erect hereunder, and promptly vacate the Property. If Licensee fails to make any necessary repairs or remove signs or barriers as required above, APCo may make such repairs or remove such signs or barriers at the expense of Licensee. Upon termination or expiration of this Agreement, Licensee also shall deliver to APCo peaceable possession of the Property.

**ARTICLE 10
ADDITIONAL TERMS**

10.01 *Not applicable.*

**ARTICLE 11
GENERAL PROVISIONS**

11.01 *Assignment.* Licensee shall not assign or in any manner transfer this Agreement or any interest or benefit herein. Each and every transfer or assignment of this Agreement, or any interest or benefit therein, shall be null and void, unless the written consent of APCo be first obtained thereto. APCo may refuse to consent to any assignment or transfer of this Agreement without regard to any reasonable commercial standards. Consent by APCo to

any assignment or transfer of interest under this Agreement shall not constitute a release, waiver, or consent to any other assignment, or any part thereof.

11.02 *Nonwaiver.* No failure of either party to exercise any power given hereunder or to insist upon strict performance of any provision of this Agreement and no custom or practice at variance with the terms hereof shall waive, affect, or diminish any right of such party thereafter to demand strict compliance with the terms hereof.

11.03 *Attorneys Fees.* Licensee agrees to pay all reasonable costs, attorney's fees and expenses that shall be incurred by APCo in enforcing the terms of this Agreement, including, but not limited to, the collection of payments required hereunder.

11.04 *Governing Law.* This Agreement shall be governed by and interpreted under the laws of the state in which the Property is located.

11.05 *Notices.* All notices under this Agreement shall be served at or sent to each party at the following physical addresses or electronic mail addresses:

If to APCo:

Alabama Power Company
Corporate Real Estate
600 North 18th Street
BIN 12N-0989
Birmingham, Alabama 35203

If to Licensee:

Notices delivered in person or via electronic mail shall be effective as of the date of actual delivery. Notices to be mailed shall be sent by either certified or regular mail, and shall be effective as of the date of receipt by addressee.

11.06 *Headings.* Headings herein are inserted for the convenience of reference only and shall have no application in the interpretation or construction of this Agreement. The language of each article shall be fully controlling.

11.07 *Partial Invalidity.* If any of the provisions of this Agreement shall be held void or unenforceable, the other provisions shall survive and remain in full force and effect.

11.08 *Integration.* This Agreement, together with its Exhibit "A", which is made an integral part hereof, represents the entire understanding of the parties hereto with respect to the subject matter hereof, supersedes all prior written or oral agreements, and shall not be modified except by a subsequent written agreement duly executed by the parties.

11.09 As a material part of the consideration for the execution of this Agreement, Licensee stipulates that this Agreement is made and accepted: (1) without representation or warranties of any kind on the part of APCo as to the suitability to the purposes for which it is granted; and (2) expressly subject to Licensee's acknowledgment of APCo's ownership, of the

Property as well as the ownership of any and all existing improvements, timber, minerals, easements, mortgages, reservations, liens, rights of ways, contracts, licenses, or other encumbrances or servitudes now of record or on the ground affecting the Licensed Premises, or to any such agreements that may hereafter be entered into by APCo; and (3) the unconditional waiver of any and all adverse or prescriptive claims by the Licensee, its guests, or by its members and their respective estates, all jointly and severally, against the ownership of the Property whether or not such claims arise incident to the operation of this Agreement.

IN WITNESS WHEREOF, APCo and Licensee have caused this Agreement to be executed effective as of the Effective Date, although actually executed on the dates set forth beneath their respective names.

LICENSOR:

ALABAMA POWER COMPANY

Angie Noel
Corporate Real Estate
Director of Shoreline, Leasing and Sales

Date Executed: _____

LICENSEE:

Date Executed: _____