

OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Summer Brook Partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Alabaster, County of Shelby, State of Alabama, which is more particularly described as:
(Insert legal description)

SUMMER BROOK I, AS RECORDED IN MAP BOOK 18 PAGE 74, PROBATE OFFICE SHELBY COUNTY

SUMMER BROOK II, AS RECORDED IN MAP BOOK 18 PAGE 74, PROBATE OFFICE SHELBY COUNTY

SUMMER BROOK III, AS RECORDED IN MAP BOOK 20 PAGE 28, PROBATE OFFICE SHELBY COUNTY

FOR COMPLETE LEGAL DESCRIPTION OF SUMMER BROOK TO BE COVERED BY THIS DECLARATION, SEE ATTACHED "EXHIBIT A"

Inst # 1996-02230

01/22/1996-02230
04:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
014 SNA 41.00

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Summer Brook Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

(See Attached)

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Summer Brook Partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

SIGN EASEMENT

A Sign Easement located in the N.E. 1/4 of the N.E. 1/4 of Section 10, Township 21 South, Range 3 West, more particularly described as follows:

Commence at the S.W. corner on the N.E. 1/4 of the N.E. 1/4 of Section 10, Township 21 South, Range 3 West; thence S86deg-09'01"E along south line of said 1/4-1/4 section for a distance of 945.63' to a point on the easterly right-of-way line of Cambridge Pointe Drive (50' R.O.W.), said point also being the **POINT OF BEGINNING**; thence continue along the last described course and leaving said right-of-way for a distance of 30.00'; thence N03deg-42'21"E for a distance of 10.00'; thence N86deg-09'01"W for a distance of 30.00' to a point on the easterly right-of-way line of said drive; thence S03deg-42'21"W for a distance of 10.00' to the **POINT OF BEGINNING**.

LOT 77

A parcel of land situated in the N.E. 1/4 of the N.E. 1/4 of Section 10, Township 21 South, Range 3 West, more particularly described as follows:

Lot 77 of Summer Brook, Sector Two, as recorded in Map Book 18, Page 75 in the Judge of Probate office in Shelby County, Alabama. ~~Said Lot contains 30069 sq. ft., more or less.~~

No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1999.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One hundred fifty dollars (\$150.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose..

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in

lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during

the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10th day of January, 1996.

Sumner Brook Prop.
Declarant

By: [Signature]
Ass Vice Pres

(Add appropriate acknowledgment)

ARTICLE VII

GENERAL REQUIREMENTS

- A. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such lot which shall, in the sole opinion of the ACC, tend to decrease the beauty of the specific area or of the neighborhood as a whole.
- B. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any part of the property and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain upon any part of the property, including vacant parcels. The undersigned reserve the right (after 10 days notice to the owner) to enter any residential lot during normal working hours for the purpose of mowing, removing, cleaning or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the undersigned detracts from the overall beauty and safety of the Subdivision and may charge the owner a reasonable cost for such services, which charge shall constitute a lien upon such lot enforceable by appropriate proceedings at law or equity.
- C. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other household pets. These household pets may be kept provide they are not kept, bred or maintained for any commercial purpose. All pets are to be kept within a fence if outside and not allowed to roam free.
- D. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
- E. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.
- F. No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be placed or screened by shrubbery or other appropriate material approved in writing by the Committee as not to

be visible from any road or within sight distance of the lot at any time except during refuse collection. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period.

- G. No structure of a temporary character, trailer, basement, tent or shack shall be used at any time as a residence either temporarily or permanently. There shall be no occupancy of any dwelling until the interior and exterior of the dwelling is completed and a certificate of occupancy issued by the appropriate governing agency.
- H. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than two (2) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. All signs shall comply with design specifications of the Architectural Control Committee. No signs shall be nailed to trees. This provision shall not apply to the developer or builders or their assigns during the sales period.
- I. When the construction of any building is once begun, work thereon must be prosecuted diligently and continuously and must be completed within 12 months.
- J. Outside air-conditioning units may not be located in the front yard or any required side yard.
- K. No vertical siding shall be used on the construction of any dwelling unless approved in writing from the Architectural Review Committee. The use of any siding must have the prior approval of the ARC.
- L. No fencing shall extend nearer to the street than the rear in of the dwelling. On corner lots, no fencing will extend beyond the side building line or any closer to the street than the rear corner of the dwelling. Chain link fences may not be visible from the street fronting the dwelling. Chain link fences may not be visible from the street fronting the dwelling.
- M. No shrubs or trees shall be planted on street corners that will impede view of sight of pedestrians or automobiles.
- N. No automobiles or similar vehicles will be stored on any lot or kept on blocks unless in the basement of structure.
- O. No satellite, or microwave dish, or antennas of any kind shall be placed on a lot which shall be visible from

any street in the subdivision.

- P. No walls above the grade of the lot shall be erected, no growing hedges planted and maintained on said property in front of the front line of the residence. No wall or fence shall be erected on the rear of the property which exceeds six feet in height. Any walls on the rear of the property above the line of site must be approved in writing by the control committee.
- Q. Upon the completion of a residence, all front and side yards will be landscaped with solid sod. The rear yard may, at builder's or owner's option, be sprigged or seeded.
- R. The roof pitch on any residence shall not be less than 6 and 12 unless first approved in writing by the ACC committee.
- S. No motor home, utility trailer, travel trailer, or boat may be stored on the driveway or home and must have current motor vehicle registration and tag. No tractor trailer trucks, panel vans, or other commercial truck in excess of a one ton classification shall be parked on any lot.
- T. No basketball goal or similar structure may be placed closer to the street than the rear building line of the house except that a basketball goal may be affixed to the house above the garage doors on a side entrance garage only.

ARTICLE VIII

The following restrictions are imposed by Plantation Pipe Line Company as a condition of the developer being allowed to construct utilities, roads, driveways, and other related installations which may affect Plantation's right of way. No change or alteration of any kind whatsoever may be made in this Section of the covenants and restrictions without the prior written consent of Plantation Pipe Line company.

- A. The erection of fences of any type across Plantation's easements shall have a gate or a removable section of fence sixteen (16) feet wide within the easement area.
- B. The fences, shrubbery or similar items shall not be placed longitudinally down or parallel to Plantation's pipeline within the easement corridor.
- C. Ornamental shrubbery or other similar vegetation or plant growth shall be restricted to a type having a shallow root base with no tap root and a mature height no greater than four (4) feet. All trees are deemed detrimental to pipelines and shall not be placed within the easement corridor.

- D. Permanent structures of any type shall not be placed within Plantation's easement corridor. Structures deemed "temporary" shall have a time limit imposed commensurate with the type of structure and the time frame shall be at the discretion of Plantation's representative.
- E. An concrete driveways shall have expansion joints every ten (10) feet and shall not contain any rebar or other like materials.
- F. All gates restricting access to Plantation's easement area shall maintain a Plantation Pipe Line Company lock which will be provided by Plantation.
- G. Recreational facilities to include, but not limited to, picnic tables, grille boxes, playground equipment, basketball goals, and volleyball nets, shall be of a type that allow being moved with ease without destroying the facilities. Posts shall be installed no greater than eighteen (18) inches deep. No posts shall be installed over Plantation's pipeline.
- H. Pipeline marker posts required by the Department of Transportation for public notification and safety shall be provided by Plantation and maintained on the easement area indefinitely.

IN WITNESS WHEREOF, the said developer and lot owners have executed this instrument of the 10 day of January, 1996.

SUMMER BROOK PARTNERSHIP
AN ALABAMA GENERAL PARTNERSHIP
BY: [Signature]
PARTNER

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Donald R. Statton, whose name as an officer of Summer Brook Partnership, an Alabama General Partnership is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily.

Given under my hand and seal this the 10 day of January 1996.

Cheryl R. Abbott
NOTARY PUBLIC

COMMISSION EXPIRES JANUARY 26, 1999

EXHIBIT "A"

A parcel of land situated in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 11, NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ Section 10, SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 3 and the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ Section 2, all in Township 21 South, Range 3 West, more particularly described as follows:

Beginning at the NW corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ Section 10, Township 21 South, Range 3 West; thence South 86°19'08" East, along the North line of said section, a distance of 281.96 feet to a point; thence North 13°15'58" West, a distance of 336.96 feet to a point; thence North 68°36'12" East, a distance of 70.00 feet to a point on the West boundary of Bermuda Hills Second Sector, Fourth Addition; thence South 7°52'12" East, along said boundary, a distance of 183.00 feet to a point; thence South 40°45'12" East, along said boundary, a distance of 70.00 feet to a point; thence South 53°57'47" East, along said boundary, a distance of 106.47 feet to a point; thence South 85°44'55" East, along said boundary, a distance of 238.93 feet to a point; thence North 75°48'48" East, a distance of 81.12 feet to a point; thence North 14°36'13" West, a distance of 154.60 feet to a point on the South boundary of Bermuda Hills Second Sector, Second Addition; thence South 55°48'16" East, along said boundary, a distance of 172.11 feet to a point; thence South 87°02'12" East, along said boundary, a distance of 412.67 feet to a point; thence South 3°19'16" West, a distance of 34.91 feet to a point; thence South 81°35'42" East, a distance of 739.63 feet to a point; thence South 3°46'20" West, a distance of 65.00 feet to a point; thence South 33°52'47" West, a distance of 360.66 feet to a point; thence South 22°09'00" East, a distance of 400.00 feet to a point; thence South 1°44'17" West, a distance of 633.14 feet to a point; thence North 88°34'39" West, along the South line of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 11, a distance of 677.76 feet to a point; thence North 86°09'01" West, along the South line of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10 and the North boundary of Cambridge Point and Applegate Manor, a distance of 1325.12 feet to a point; thence North 3°39'35" East, along the West line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section and the East boundary of Shalimar Point, a distance of 1335.33 feet to the point of beginning.

Less and Except a cemetery described as follows:

Commence at the NW corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 10, Township 21 South, Range 3 West; thence South 86°19'08" East, along said section line, a distance of 1327.74 feet to a point; thence South 29°27'57" East, a distance of 188.67 feet to a point for the point of beginning; thence North 83°10'16" East, a distance of 100.00 feet to a point; thence South 6°49'44" East, a distance of 115.00 feet to a point; thence South 83°10'16" West, a distance of 100.00 feet to a point; thence North 6°49'44" West, a distance of 115.00 feet to the point of beginning.

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